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Volume 15(4)

The 2007 Reissue of Volume 15(4) contains the completion of the title ELECTIONS AND REFERENDUMS. This volume, together with Volume 15(3) (2007 Reissue) replace the 4th Edn (Reissue) Volume 15, which may now be archived.

With the publication of Volume 15(3) (2007 Reissue) and Volume 15(4) (2007 Reissue), a complete set of Halsbury's Laws of England now contains the following volumes (bold figures represent reissue volumes):

1(**1**) (2001 Reissue), **1**(**2**), **2**(**1**), **2**(**2**), **2**(**3**), **3**(**1**) (2005 Reissue), **3**(**2**) (2002 Reissue), **4**(**1**) (2002 Reissue), **4**(**2**) (2002 Reissue), **4**(**3**), **5**(**1**) (2004 Reissue), **5**(**2**) (2001 Reissue), **5**(**3**), **6** (2003 Reissue), **7**(**1**) (2004 Reissue), **7**(**2**) (2004 Reissue), **7**(**3**) (2004 Reissue), **7**(**4**) (2004 Reissue), **8**(**1**) (2003 Reissue), **8**(**2**), **8**(**3**), **9**(**1**), **9**(**2**) (2006 Reissue), **10**, **11**(**1**) (2006 Reissue), **11**(**2**) (2006 Reissue), **11**(**3**) (2006 Reissue), **11**(**4**) (2006 Reissue), **12**(**1**), **12**(**2**) (2007 Reissue), **12**(**3**) (2007 Reissue), **13**, 14, **15**(**1**) (2006 Reissue), **15**(**2**) (2006 Reissue), **15**(**3**) (2007 Reissue), **15**(**4**) (2007 Reissue), **16**(**1A**), **16**(**1B**), **16**(**2**), **17**(**1**), **17**(**2**), 18, **18**(**1**), **18**(**2**), **19**(**1**), **19**(**2**), **20**(**1**), **20**(**2**), **21** (2004 Reissue), **22** (2006 Reissue), **23**(**1**), **23**(**2**), **24**, **25** (2003 Reissue), **26** (2004 Reissue), **27**(**1**) (2006 Reissue), **27**(**2**) (2006 Reissue), **27**(**3**) (2006 Reissue), **28**, **29**(**1**), **29**(**2**), **29**(**3**), **30**(**1**), **30**(**2**), **31** (2003 Reissue), **32** (2005 Reissue), **33**, **34**, **35**, **36**(**1**), **36**(**2**), **37**, **38** (2006 Reissue), **39**(**1**), **39**(**2**), **40**(**1**), **40**(**2**), **41** (2005 Reissue), **42**, **43**(**1**), **43**(**2**), **44**(**1**), **44**(**2**), **45**(**1**) (2005 Reissue), **45**(**2**), **46**(**1**), **46**(**2**), **46**(**3**), **47** (2001 Reissue), **48** (2000 Reissue), **49**(**1**) (2005 Reissue), **49**(**2**) (2004 Reissue), **49**(**3**) (2004 Reissue), **50** (2005 Reissue), 51, 52, **53**(**1**) (2007 Consolidated Table of Statutes), **53**(**2**) (2007 Consolidated Table of Statutory Instruments, etc), **54**(**1**) (2007 Consolidated Table of Cases A–L), **54**(**2**) (2007 Consolidated Table of Cases M–Z, ECJ Cases), **55** (2006 Consolidated Index A–E), **56** (2006 Consolidated Index F–O), **57** (2006 Consolidated Index P–Z).

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Lord High Chancellor of Great Britain
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LORD MACKAY OF CLASHFERN

LORD HIGH CHANCELLOR OF GREAT BRITAIN

1987–97

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Any future updating material will be found in the Current Service and annual Cumulative Supplement to Halsbury's Laws of England.

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REFERENCES AND ABBREVIATIONS

ACT	Australian Capital Territory
A-G	Attorney General
Admin	Administrative Court
Admlty	Admiralty Court
Adv-Gen	Advocate General
affd	affirmed
affg	affirming
Alta	Alberta
App	Appendix
art	article
Aust	Australia
B	Baron
BC	British Columbia
C	Command Paper (of a series published before 1900)
c	chapter number of an Act
CA	Court of Appeal
CAC	Central Arbitration Committee
CA in Ch	Court of Appeal in Chancery
CB	Chief Baron
CCA	Court of Criminal Appeal
CCR	County Court Rules 1981 (SI 1981/1687) as subsequently amended
CCR	Court for Crown Cases Reserved
C-MAC	Courts-Martial Appeal Court
CO	Crown Office
COD	Crown Office Digest
CPR	Civil Procedure Rules 1998 (SI 1998/3132) as subsequently amended (see the Civil Court Practice)
Can	Canada
Cd	Command Paper (of the series published 1900–18)
Cf	compare
Ch	Chancery Division
ch	chapter
cl	clause
Cm	Command Paper (of the series published 1986 to date)
Cmd	Command Paper (of the series published 1919–56)

Cmnd	Command Paper (of the series published 1956–86)
Comm	Commercial Court
Comr	Commissioner
Court Forms (2nd Edn)	Atkin's Encyclopaedia of Court Forms in Civil Proceedings, 2nd Edn. See note 2 post.
Court Funds Rules 1987	Court Funds Rules 1987 (SI 1987/821) as subsequently amended
DC	Divisional Court
DPP	Director of Public Prosecutions
EAT	Employment Appeal Tribunal
EC	European Community
ECJ	Court of Justice of the European Community
EComHR	European Commission of Human Rights
ECSC	European Coal and Steel Community
ECtHR Rules of Court	Rules of Court of the European Court of Human Rights
EEC	European Economic Community
EFTA	European Free Trade Association
EWCA Civ	Official neutral citation for judgments of the Court of Appeal (Civil Division)
EWCA Crim	Official neutral citation for judgments of the Court of Appeal (Criminal Division)
EWHC	Official neutral citation for judgments of the High Court
Edn	Edition
Euratom	European Atomic Energy Community
Ex Ch	Court of Exchequer Chamber
ex p	ex parte
Fam	Family Division
Fed	Federal
Forms & Precedents (5th Edn)	Encyclopaedia of Forms and Precedents other than Court Forms, 5th Edn. See note 2 post.
GLC	Greater London Council
HC	High Court
HC	House of Commons
HK	Hong Kong
HL	House of Lords
IAT	Immigration Appeal Tribunal
ILM	International Legal Materials
INLR	Immigration and Nationality Law Reports
IRC	Inland Revenue Commissioners
Ind	India
Int Rels	International Relations
Ir	Ireland
J	Justice
JA	Judge of Appeal
Kan	Kansas

LA	Lord Advocate
LC	Lord Chancellor
LCC	London County Council
LCJ	Lord Chief Justice
LJ	Lord Justice of Appeal
LoN	League of Nations
MR	Master of the Rolls
Man	Manitoba
n	note
NB	New Brunswick
NI	Northern Ireland
NS	Nova Scotia
NSW	New South Wales
NY	New York
NZ	New Zealand
OJ	The Official Journal of the European Community published by the Office for Official Publications of the European Community
Ont	Ontario
P	President
PC	Judicial Committee of the Privy Council
PEI	Prince Edward Island
Pat	Patents Court
q	question
QB	Queen's Bench Division
QBD	Queen's Bench Division of the High Court
Qld	Queensland
Que	Quebec
r	rule
RDC	Rural District Council
RPC	Restrictive Practices Court
RSC	Rules of the Supreme Court 1965 (SI 1965/1776) as subsequently amended
reg	regulation
Res	Resolution
revsd	reversed
Rly	Railway
s	section
SA	South Africa
S Aust	South Australia
SC	Supreme Court
SI	Statutory Instruments published by authority
SR & O	Statutory Rules and Orders published by authority
SR & O Rev 1904	Revised Edition comprising all Public and General Statutory Rules and Orders in force on 31 December 1903
SR & O Rev 1948	Revised Edition comprising all Public and General

	Statutory Rules and Orders and Statutory Instruments in force on 31 December 1948
SRNI	Statutory Rules of Northern Ireland
STI	Simon's Tax Intelligence (1973–1995); Simon's Weekly Tax Intelligence (1996-current)
Sask	Saskatchewan
Sch	Schedule
Sess	Session
Sing	Singapore
TCC	Technology and Construction Court
TS	Treaty Series
Tanz	Tanzania
Tas	Tasmania
UDC	Urban District Council
UKHL	Official neutral citation for judgments of the House of Lords
UKPC	Official neutral citation for judgments of the Privy Council
UN	United Nations
V-C	Vice-Chancellor
Vict	Victoria
W Aust	Western Australia
Zimb	Zimbabwe

NOTE 1. A general list of the abbreviations of law reports and other sources used in this work can be found at the beginning of vol 54 (Reissue) Consolidated Table of Cases.

NOTE 2. Where references are made to other publications, the volume number precedes and the page number follows the name of the publication; eg the reference '12 Forms & Precedents (5th Edn) 44' refers to volume 12 of the Encyclopaedia of Forms and Precedents, page 44.

NOTE 3. An English statute is cited by short title or, where there is no short title, by regnal year and chapter number together with the name by which it is commonly known or a description of its subject matter and date. In the case of a foreign statute, the mode of citation generally follows the style of citation in use in the country concerned with the addition, where necessary, of the name of the country in parentheses.

NOTE 4. A statutory instrument is cited by short title, if any, followed by the year and number, or, if unnumbered, the date.

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5. PROCEDURE FOR CONDUCTING ELECTIONS

(4) THE BALLOT

(i) The Voting Systems

344. Elections taking place in a constituency or electoral area. Contested elections for the return of a member to represent a parliamentary constituency[1], a local government electoral area[2] (including a London Assembly constituency[3]) or a Welsh Assembly constituency[4] take place under a voting system where the result is ascertained by counting the votes given to each candidate[5] and the candidate to whom the majority of votes has been given is declared to have been elected[6]. Where, after the counting of the votes (including any recount) is completed, an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote[7].

1 For the meaning of 'parliamentary election', and for the meaning of 'constituency' in the context of a parliamentary election, see para 9 ante.

2 For the meaning of 'local government election', and for the meaning of 'electoral area' in the context of a local government election, see para 10 ante.

3 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 ante. As to elections for the return of constituency members of the London Assembly see para 206 et seq ante.

4 For the meanings of 'constituency election' and 'Assembly constituency' in the context of a Welsh Assembly election see para 3 note 1 ante.

5 For the meaning of 'candidate' generally see para 237 ante. Note also the use of the term 'individual candidate' as it is used in the context of regional elections, where party lists operate, to indicate a person standing for election who is not included in the list of candidates of a registered party: see para 345 post.

In the case of a Welsh Assembly constituency election, the result is ascertained under the simple majority system in accordance with the Government of Wales Act 2006 s 6(2), (4) (see para 369 post); and, in the case of the election of an Assembly member for an Assembly constituency, the member is returned under the simple majority system in accordance with the Greater London Authority Act 1999 s 4(1)(b), (4) (see para 368 post). The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 4(2), (4); and para 369 post.

6 Representation of the People Act 1983 s 23(1), Sch 1 r 18; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 14; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 22(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 15; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 15. In the case of a local government election, the candidate or candidates to whom more votes have been given than to the other candidates, up to the number of councillors to be elected, is or are declared to have been elected: see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 15; and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 15.

This voting system is known variously as the 'simple majority', 'relative majority' or 'first past the post' system. In none of these terms is it to be implied that the successful candidate has to receive more than a certain number (or more than 50%) of the votes cast before he can be declared to be elected.

7 As to parliamentary elections see the Representation of the People Act 1983 s 23(1), Sch 1 r 49 (cited in para 441 post). As to local government elections see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 49; and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 49 (cited in para 441 post). As to London Assembly constituency elections see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 44 (cited in para 447 post). As to Welsh Assembly constituency elections see the Government of Wales Act 2006 s 6(2), (4); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 55 (cited in para 466 post); and

CONSTITUTIONAL LAW AND HUMAN RIGHTS. The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 4(2), (4); and para 369 post.

345. Elections taking place in an electoral region. Where contested elections take place to return London members of the London Assembly[1], or members to represent Welsh Assembly electoral regions[2] or members to represent European parliamentary electoral regions[3], votes are given for the candidates[4] by ballot and the results are ascertained, after counting the votes given to each individual candidate or registered political party, using a 'corrective' system of calculation[5] as follows:

(1) in the case of an 'additional member' system:
   (a) a figure (the 'electoral region figure')[6] for each registered political party[7] is arrived at[8] by adding together the number of electoral region votes[9] given for the party in the constituencies included in the electoral region[10] and dividing the number thereby arrived at by the aggregate of one plus the number of candidates of the party returned as constituency members for any of those constituencies[11]; and
   (b) the electoral region figure for each individual candidate is arrived at[12] by adding together the number of electoral region votes given for that candidate in the constituencies included in the electoral region[13],

   but, in the case of a 'regional list' system, the 'electoral region figure' is simply the number of votes cast for each registered party or candidate;

(2) the first of the seats for the electoral region is allocated to the party or individual candidate with the highest electoral region figure[14];

(3) the second and subsequent seats for the electoral region are allocated to the party or individual candidate with the highest electoral region figure after any required recalculation[15] has been carried out[16].

An individual candidate already returned as a regional member (or, in the case of an election for the return of London members of the London Assembly, as the Mayor of London) is disregarded for the purposes of the allocation of seats to regional members[17]. Electoral region seats allocated to a party are filled by the persons on the party's list in the order in which they appear on the list[18], and once a party's list has been exhausted[19] the party is disregarded[20]. However, in the case of the last seat to be allocated, where two or more registered parties or individual candidates have an equal number of votes, and that number is greater than the number of votes of any other party or candidate, one vote must be added to the votes of each party or individual candidate having such an equal number and the operation in head (3) above is reapplied[21]. If, after that, the highest electoral region figure is still the electoral region figure of two or more parties or individual candidates, the appropriate returning officer[22] must forthwith decide between the parties and individual candidates having such an equal number by lot, and allocate the seat to the party or candidate on whom the lot falls[23].

1 For the meaning of 'London member' see para 10 note 5 ante. As to elections for the return of the London members of the London Assembly see para 206 et seq ante.

2 For the meanings of 'regional election' and 'Assembly electoral region' in the context of a Welsh Assembly election see para 3 note 1 ante.

3 As to electoral regions constituted for the purposes of European parliamentary elections see para 76 ante; and as to European parliamentary elections see para 224 et seq ante.

4 In an election of London members of the London Assembly, of Welsh Assembly regional members or of members of the European Parliament ('MEPs'), electors may give a vote for: (1) a registered party which has submitted a list of candidates; or (2) an individual who is named on the ballot paper as a candidate: see the Greater London Authority Act 1999 s 4(1)(c), (5) (cited in para 368 post; and see LONDON GOVERNMENT vol 29(2) (Reissue) para 90); the Government of Wales Act 2006 s 6(3) (cited in para 369

post; and see CONSTITUTIONAL LAW AND HUMAN RIGHTS); and the European Parliamentary Elections Act 2002 s 2(3), (4) (cited in para 370 post). As to individual candidates and the submission of lists of candidates to be London members of the London Assembly see para 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see para 262 note 24 ante. For the meaning of 'registered political party' in this context see para 233 note 16 ante. As to individual candidates and the submission of lists of candidates to be members for a Welsh Assembly region see para 234 ante. For the meanings of 'individual candidate', 'party list candidate' and 'registered political party' in the context of a Welsh Assembly regional election see para 237 note 23 ante. As to individual candidates and the submission of lists of candidates to be members for a Welsh Assembly region see para 234 ante. As to the submission of lists of candidates to be MEPs see para 235 ante. For the meaning of 'list', in the context of a European parliamentary election, see para 237 note 30 ante; and for the meaning of 'individual candidate' see para 237 note 32 ante. The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 4(3).

5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 1 r 15; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 22(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 20.

The system is known as the 'additional member' system of proportional representation for the election of Welsh Assembly regional members (see the Government of Wales Act 2006 s 6(5)) and as a 'regional list' system for the election of MEPs in a European parliamentary electoral region (see the European Parliamentary Elections Act 2002 s 2(1) (amended by the European Parliamentary Elections (Combined Region and Controlled Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 3(1), (3)(b))). The 'regional list' system is similar to the 'additional member' system but the members elected from a European parliamentary electoral region are not 'additional' to constituency members because that element is absent in such elections. A form of the 'additional member' system is used for the election of London members of the London Assembly. The aim of the 'corrective' system of calculation is to allocate seats in proportion to the overall share of the vote of each party or each candidate in the electoral region. The provisions of the Government of Wales Act 2006 supersede those of the Government of Wales Act 1998 immediately after the ordinary election held in 2007 under s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes before that date see the Government of Wales Act 1998 s 4(5).

6 See the Government of Wales Act 2006 s 8(5). As to the date at which this provision takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(3).

In the context of an election for the return of London members of the London Assembly, this figure is referred to as the 'London figure': see the Greater London Authority Act 1999 s 4(6), Sch 2 para 6(3). To apply the prevailing terminology, London constitutes the 'electoral region' for a regional election in which there is only one region, so it can be named specifically.

7 Ie each registered political party by which a list of candidates has been submitted (see note 4 supra).

8 Greater London Authority Act 1999 Sch 2 para 6(3)(a); Government of Wales Act 2006 s 8(5)(a). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(3)(a).

9 In the context of an election for the return of London members of the London Assembly, these votes are referred to as 'London votes': see the Greater London Authority Act 1999 ss 4(1)(c), 29; and notes 4–5 supra.

10 Ibid Sch 2 para 6(1)(a); Government of Wales Act 2006 s 8(3)(a). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(1)(a).

11 Greater London Authority Act 1999 Sch 2 para 6(1)(b); Government of Wales Act 2006 s 8(3)(b). Accordingly, the persons who are to be returned as the constituency members for each constituency included in the electoral region (and, in the case of an election for the return of London members of the London Assembly, the person who is returned as the Mayor of London) must be determined before it is determined who are to be returned as the regional members for the electoral region: Greater London Authority Act 1999 s 4(7); Government of Wales Act 2006 s 8(2). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 ss 4(6), 6(1)(b). As to elections for the return of a Mayor of London see para 206 ante.

However, in the context of an election for the return of London members of the London Assembly, if the poll at the election of an Assembly member for an Assembly constituency is countermanded or abandoned for any reason, the persons who are to be returned as the London members must be determined without regard to the determination of the Assembly member for that Assembly constituency: Greater London Authority Act 1999 s 4(8). If a person who is a candidate of a registered

political party in a London Assembly constituency is returned as the Assembly member for the constituency and is also returned as the Mayor of London, that person counts for the purposes of calculating the aggregate number in head (1)(a) in the text as a candidate of the party returned as a constituency member, notwithstanding that a vacancy arises in the Assembly constituency by virtue of s 4(10) (person returned as Mayor of London also returned as Assembly constituency member: see para 346 post): see Sch 2 para 6(4). Also, if the number of London votes for each registered political party arrived at in head (1)(a) in the text is not more than 5% of the total number of London votes polled by all the registered political parties and all the individual candidates at the election, none of the seats for London members is allocated to that party (Sch 2 para 7(1)(a)), and that party is accordingly left out of account for the purposes of heads (2) and (3) in the text (Sch 2 para 7(1)(a), (2)).

12 Ibid Sch 2 para 6(3)(b); Government of Wales Act 2006 s 8(5)(b). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(3)(b).

13 Greater London Authority Act 1999 Sch 2 para 6(2); Government of Wales Act 2006 s 8(4). As to the date at which s 8 takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 6(2).

In the context of an election for the return of London members of the London Assembly, if the number of London votes for an individual candidate arrived at under head (1)(b) in the text is not more than 5% of the total number of London votes polled by all the registered political parties and all the individual candidates at the election, none of the seats for London members is allocated to that individual candidate (Greater London Authority Act 1999 Sch 2 para 7(1)(b)), and that candidate is accordingly left out of account for the purposes of heads (2) and (3) in the text (Greater London Authority Act 1999 Sch 2 para 7(1)(b), (2)).

14 Ibid Sch 2 para 8(1); European Parliamentary Elections Act 2002 s 2(5); Government of Wales Act 2006 s 9(1). As to the date at which s 9(1) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(1).

In the case of an 'additional member' system, where the application of head (2) in the text results in two or more registered parties or individual candidates having an equal number of votes, and that number is greater than the number of votes of any other party or candidate, head (2) in the text applies to each of them: Greater London Authority Act 1999 Sch 2 para 8(7); Government of Wales Act 2006 s 9(7). As to the date at which s 9(7) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(7).

15 Ie the number of votes given to a party to which one or more seats have already been allocated are to be divided by the number of seats allocated plus one: Greater London Authority Act 1999 Sch 2 para 8(3); European Parliamentary Elections Act 2002 s 2(6); Government of Wales Act 2006 s 9(3). As to the date at which s 9(3) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(3).

16 Greater London Authority Act 1999 Sch 2 para 8(2); European Parliamentary Elections Act 2002 s 2(6); Government of Wales Act 2006 s 9(2). As to the date at which s 9(2) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(2). In the case of a European parliamentary election, it is specified that fractions are to be taken into account for this purpose: see the European Parliamentary Elections Act 2002 s 2(9).

In the case of an 'additional member' system, where the application of head (3) in the text results in two or more registered parties or individual candidates having an equal number of votes, and that number is greater than the number of votes of any other party or candidate, head (3) in the text applies to each of them: Greater London Authority Act 1999 Sch 2 para 8(7); Government of Wales Act 2006 s 9(7). As to the date at which s 9(7) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(7).

17 Greater London Authority Act 1999 Sch 2 para 8(4); European Parliamentary Elections Act 2002 s 2(7)(b); Government of Wales Act 2006 s 9(4). As to the date at which s 9(4) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(4).

18 Greater London Authority Act 1999 Sch 2 para 8(5); European Parliamentary Elections Act 2002 s 2(8); Government of Wales Act 2006 s 9(5). As to the date at which s 9(5) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(5).

In the case of an election for the return of London members of the London Assembly (including for the purpose of filling a vacancy: see para 211 ante), a person included on a list submitted by a registered political party who is returned as the Mayor of London or as a London Assembly member is treated as ceasing to be on the list (even if his return is void): Greater London Authority Act 1999 Sch 2 para 8(10).

19 Ie by the return of persons included on it as constituency members or by the previous application of head (2) or head (3) in the text.

20 Greater London Authority Act 1999 Sch 2 para 8(6); European Parliamentary Elections Act 2002 s 2(7)(a); Government of Wales Act 2006 s 9(6). As to the date at which s 9(6) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(6).

21 Greater London Authority Act 1999 Sch 2 para 8(8); Government of Wales Act 2006 s 9(8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9, Sch 1 para 55(1). It is possible that the operation in head (2) in the text would result in more candidates having the same highest electoral region figure than there are seats to be allocated, in which case the same principle applies, with the operation in head (2) in the text being reapplied after a recalculation as mentioned in the text: see the Greater London Authority Act 1999 Sch 2 para 8(8); and the Government of Wales Act 2006 s 9(8). As to the date at which s 9(8) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(8).

22 In the case of an election for the return of London members of the London Assembly, the reference is to the Greater London returning officer (for the meaning of which see para 218 note 7 ante). In relation to a Welsh Assembly regional election, the reference is to a regional returning officer (for the meaning of which see para 18 note 2 ante). As to returning officers for European parliamentary elections see para 365 et seq post.

23 Greater London Authority Act 1999 Sch 2 para 8(9); Government of Wales Act 2006 s 9(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 55(2). As to the date at which the Government of Wales Act 2006 s 9(9) takes effect see note 5 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 7(9). In the case of a European parliamentary election, it is specified that, where the lot falls on a party, the returning officer must allocate the seat according to the order in which the persons named on the party's list of candidates appear on that list: European Parliamentary Elections Act 2002 s 2(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 55(3).

346. Elections to the office of mayor. An elected local authority mayor[1] or the Mayor of London ('an elected mayor') is returned[2] under the simple majority system, unless there are three or more candidates[3], in which case the mayor must be returned under the supplementary vote system[4] and a voter's mayoral vote[5] will be a vote capable of being given to indicate the voter's first and second preferences from among the candidates[6].

Where the supplementary vote system is applied, if one of the candidates to be the elected mayor receives more than half of all the first preference votes[7] given in the election[8], that candidate is returned as the elected mayor[9]. If none of the candidates receives more than half of all the first preference votes given in the election[10], the two candidates who received the greatest number of such votes remain in the contest[11] (the other candidates being eliminated[12]), and the number of second preference votes[13] given in the election for each of the remaining candidates by voters who did not give their first preference vote to any of those candidates is ascertained[14] and added to the number of first preference votes given for that candidate, to give his total number of preference votes[15]. The person who is to be returned as the elected mayor is that one of the remaining candidates who has the greatest total number of preference votes[16]. If the person who is returned at an election as the elected mayor of a local authority is also returned as (or was already) a councillor of the authority, a vacancy arises in the office of councillor[17]. If the person who is returned as the Mayor of London is also returned as (or was already) a London Assembly member for an Assembly constituency[18], a vacancy arises in the Assembly constituency[19].

1 As to an election for the return of an elected local authority mayor see para 205 ante. See also LOCAL GOVERNMENT vol 29(1) (Reissue) paras 115, 228.

2 As to elections for the return of a Mayor of London see para 206 ante. See also LONDON GOVERNMENT vol 29(2) (Reissue) para 90.

3 Greater London Authority Act 1999 s 4(2); Local Government Act 2000 s 42(2).

4 Ie in accordance with the Greater London Authority Act 1999 s 4(3)(a), Sch 2 paras 1–4 or the Local Government Act 2000 s 42(3), Sch 2 (see the text and notes 5–16 infra).

5 Ie the vote which each elector may give for a candidate to be an elected mayor: Greater London Authority Act 1999 s 4(1)(a); Local Government Act 2000 s 42(1). See further para 368 post.

6 Greater London Authority Act 1999 s 4(3)(b), Sch 2 para 1; Local Government Act 2000 s 42(3). In such circumstances a voter's mayoral vote is known as a 'supplementary vote'.

7 For these purposes, 'first preference vote' means a mayoral vote to the extent that it is given so as to indicate a voter's first preference from among the candidates to be the elected mayor: Greater London Authority Act 1999 Sch 2 para 2; Local Government Act 2000 s 42(1)(a).
8 In the case of an election for the return of a Mayor of London, the votes are given in the London Assembly constituencies. For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 ante.
9 Greater London Authority Act 1999 Sch 2 para 3; Local Government Act 2000 Sch 2 para 2.
10 Greater London Authority Act 1999 Sch 2 para 4(1); Local Government Act 2000 Sch 2 para 3(1).
11 Greater London Authority Act 1999 Sch 2 para 4(2); Local Government Act 2000 Sch 2 para 3(2). If, by reason of an equality of first preference votes, three or more candidates are qualified to remain in the contest, all of them remain in the contest: Greater London Authority Act 1999 Sch 2 para 4(3); Local Government Act 2000 Sch 2 para 3(3).
12 Greater London Authority Act 1999 Sch 2 para 4(4); Local Government Act 2000 Sch 2 para 3(4).
13 For these purposes, 'second preference vote' means a mayoral vote to the extent that it is given so as to indicate a voter's second preference from among the candidates to be the elected mayor: Greater London Authority Act 1999 Sch 2 para 2; Local Government Act 2000 s 42(1)(b).
14 Greater London Authority Act 1999 Sch 2 para 4(5); Local Government Act 2000 Sch 2 para 3(5).
15 Greater London Authority Act 1999 Sch 2 para 4(6); Local Government Act 2000 Sch 2 para 3(6).
16 Greater London Authority Act 1999 Sch 2 para 4(7); Local Government Act 2000 Sch 2 para 3(7). If, by reason of an equality of total number of preference votes, two or more of the remaining candidates each have the greatest total number of preference votes, the returning officer must decide by lots which of them is returned as the elected mayor: Greater London Authority Act 1999 Sch 2 para 4(8); Local Government Act 2000 Sch 2 para 3(8). In the case of an election for the return of the Mayor of London, the reference is to the Greater London returning officer (for the meaning of which see para 218 note 7 ante). As to returning officers for the election of a local authority elected mayor see para 359 post.
17 See the Local Government Act 2000 s 40; and LOCAL GOVERNMENT vol 29(1) (Reissue) para 230.
18 See para 344 ante.
19 Greater London Authority Act 1999 s 4(10). See para 345 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) para 109.

347. Polls consequent on a parish meeting taken on the question of appointment to any office. In the case of a contested poll consequent on a parish meeting taken on the question of appointment to any office[1], the candidate or candidates to whom more votes have been given than to other candidates, up to the number of appointments to be made, are declared to be elected[2]. Where, after the counting of the votes (including any recount) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected or would decide the question, the returning officer must forthwith decide between those candidates or that question by lot, and proceed as if the candidate on whom or answer in favour of or against the question on which the lot falls had received an additional vote[3].

1 As to polls consequent on a parish meeting taken on the question of appointment to any office see para 207 et seq ante.
2 See the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 32(a); and para 482 post.
3 See ibid Schedule r 31; and para 441 post.

(ii) Polling Districts and Polling Places

348. Polling districts at parliamentary elections. Every parliamentary constituency[1] is to be divided into polling districts[2]. A relevant authority[3] must divide its area into polling districts for the purpose of parliamentary elections for so much of any constituency as is situated in its area[4], and keep the polling districts under review[5]. The authority must seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances[6]; and, unless there are special circumstances[7], in England each parish is to be a separate polling district[8] and in Wales each community is to be a separate polling district[9]. If an alteration of polling

districts in an area is made: (1) the registration officer who acts for the area[10] must make such adaptations of his register of parliamentary electors[11] as are necessary to take account of the alteration[12]; and (2) the alteration is effective on the date on which the registration officer publishes a notice stating that any such adaptations have been made by him[13].

No election is to be questioned by reason of any non-compliance with the provisions relating to the designation of parliamentary polling districts (including provision made for their review[14]) or any informality relative to polling districts[15].

1 For the meaning of 'constituency' in the context of a parliamentary election see para 9 ante.
2 Representation of the People Act 1983 s 18A(1) (ss 18A, 18E added by the Electoral Administration Act 2006 s 16(1)).
3 In relation to England, the council of a district or London borough is a relevant authority (Representation of the People Act 1983 s 18E(1), (3)(a) (as added: see note 2 supra)); and, in relation to Wales, the council of a county or county borough is a relevant authority (s 18E(1), (3)(c) (as so added)). For the meanings of 'England' and 'Wales' see para 13 note 1 ante. As to districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq; and as to London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq.
4 Ibid s 18A(2)(a) (as added: see note 2 supra).
5 Ibid s 18A(2)(b) (as added: see note 2 supra). As to the review of parliamentary polling districts see para 350 post.
6 Ibid s 18A(3)(a) (as added: see note 2 supra). For the meaning of 'elector', in relation to a parliamentary election, see para 110 note 2 ante.
7 Ibid s 18A(4) (as added: see note 2 supra).
8 Ibid s 18A(3)(b) (as added: see note 2 supra). As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq.
9 Ibid s 18A(3)(c) (as added: see note 2 supra). As to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.
10 As to electoral registration officers and the areas for which they act see para 154 et seq ante.
11 As to the duty of each registration officer to maintain the registers of electors see para 156 et seq ante.
12 Representation of the People Act 1983 s 18A(5)(a) (as added: see note 2 supra).
13 Ibid s 18A(5)(b) (as added: see note 2 supra).
14 Ibid s 18E(1), (2)(a) (as added: see note 2 supra).
15 Ibid s 18E(1), (2)(b) (as added: see note 2 supra). As to the questioning of parliamentary elections see para 759 et seq post.

349. Polling places at parliamentary elections. A polling place is to be designated for each polling district in a constituency[1], unless the size or other circumstances of a polling district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them[2]. A relevant authority[3] must designate the polling places for the polling districts in its area[4] and keep the polling places in its area under review[5], in relation to which the following rules apply[6]: (1) the authority must seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances[7]; (2) the authority must seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to electors who are disabled[8]; (3) the authority must have regard to the accessibility to disabled persons of potential polling stations in any place which it is considering designating as a polling place or the designation of which as a polling place it is reviewing[9]; (4) the polling place for a polling district must be an area in the district, unless special circumstances make it desirable to designate an area wholly or partly outside the district[10]; (5) the polling place for a polling district must be small enough to indicate to electors in different parts of the district how they will be able to reach the polling station[11]. If no polling place is designated for a polling district, the polling district is to be taken to be the polling place[12].

No election is to be questioned by reason of any non-compliance with the provisions relating to the designation of parliamentary polling places (including provision made for their review[13]) or any informality relative to polling places[14].

1 Representation of the People Act 1983 s 18B(1) (ss 18B, 18E added by the Electoral Administration Act 2006 s 16(1)). For the meaning of 'constituency' in the context of a parliamentary election see para 9 ante. As to the designation of polling districts at parliamentary elections see para 348 ante.
2 Representation of the People Act 1983 s 18B(2) (as added: see note 1 supra). For the meaning of 'elector', in relation to a parliamentary election, see para 110 note 2 ante.
3 As to the relevant authorities for these purposes see para 350 note 3 ante.
4 Representation of the People Act 1983 s 18B(3)(a) (as added: see note 1 supra).
5 Ibid s 18B(3)(b) (as added: see note 1 supra).
6 Ibid s 18B(4) (as added: see note 1 supra).
7 Ibid s 18B(4)(a) (as added: see note 1 supra).
8 Ibid s 18B(4)(b) (as added: see note 1 supra).
9 Ibid s 18B(4)(c) (as added: see note 1 supra).
10 Ibid s 18B(4)(d) (as added: see note 1 supra).
11 Ibid s 18B(4)(e) (as added: see note 1 supra).
12 Ibid s 18B(5) (as added: see note 1 supra).
13 Ibid s 18E(1), (2)(a) (as added: see note 1 supra).
14 Ibid s 18E(1), (2)(b) (as added: see note 1 supra). As to the questioning of parliamentary elections see para 759 et seq post.

350. Review of parliamentary polling districts and polling places. Each relevant authority[1] must complete a review, under the provisions relating to parliamentary polling districts and polling places at parliamentary elections[2], of all the polling districts and polling places in its area before the end of the period of 12 months starting with 1 January 2007[3]. However, this requirement does not apply in the case of a polling district or polling place (as the case may be) which is designated for the first time during that period[4]. In such a case, the first review of the polling district or polling place must be completed before the end of the period of four years starting with the date on which that designation is made[5]. The authority must complete a further review of each polling district and polling place in its area before the end of the period of four years starting with the completion of the previous such review[6]. These provisions do not prevent a relevant authority carrying out at any time a review of a particular polling district or polling place[7].

The relevant authority must publish notice of the holding of a review[8]. The authority must consult the returning officer for every parliamentary election[9] held in a constituency[10] that is wholly or partly in its area[11]; and every such returning officer must make to the authority representations[12], which must include information as to the location of polling stations (existing or proposed) within polling places (existing or proposed)[13], and which must be published in such manner as is prescribed[14]. The authority must also seek representations from such persons as it thinks have particular expertise in relation to access to premises or facilities for persons who have different forms of disability[15]; and such persons must have an opportunity both to make representations[16] and to comment on the returning officer's representations[17]. Any elector in a constituency situated in whole or in part in the authority's area may also make representations[18]. Representations made by any person in connection with a review of polling places may include proposals for specified alternative polling places[19]. On completion of a review, the authority must give reasons for its decisions in the review[20] and it must publish such other information as is prescribed[21].

No election is to be questioned by reason of any non-compliance with the provisions relating to the review of parliamentary polling districts and polling places[22] or any informality relative to polling districts or polling places[23].

1 As to the relevant authorities for these purposes see para 350 note 3 ante.

2 Ie under the Representation of the People Act 1983 ss 18A–18B (as added) (see paras 348–349 ante).
3 Ibid s 18C(1) (ss 18C, 18E added by the Electoral Administration Act 2006 s 16(1)). The date mentioned in the text is the date on which the Electoral Administration Act 2006 s 16 came into force: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1, para 14(c).
4 Representation of the People Act 1983 s 18C(2) (as added: see note 3 supra).
5 Ibid s 18C(3) (as added: see note 3 supra).
6 Ibid s 18C(4) (as added: see note 3 supra).
7 Ibid s 18C(5) (as added: see note 3 supra).
8 Ibid s 18C(6), Sch A1 para 1 (s 18C(6) as added (see note 3 supra); and Sch A1 added by the Electoral Administration Act 2006 s 16(2)).
9 As to returning officers for parliamentary elections see para 355 et seq post.
10 For the meaning of 'constituency' in the context of a parliamentary election see para 9 ante.
11 Representation of the People Act 1983 Sch A1 para 2 (as added: see note 8 supra).
12 Ibid Sch A1 para 3(1) (as added: see note 8 supra).
13 Ibid Sch A1 para 3(2) (as added: see note 8 supra).
14 Ibid Sch A1 para 3(3) (as added: see note 8 supra). 'Prescribed' means prescribed by regulations: s 202(1). Accordingly, a relevant authority must, within 30 days of receipt, publish representations made by a returning officer for the purposes of the review of polling districts or polling places by posting a copy of them at its office and in at least one conspicuous place in its area and, if the authority maintains a website, by placing a copy on the authority's website: Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, SI 2006/2965, reg 3. As to the making of regulations under the Representation of the People Act 1983 generally see para 24 note 16 ante.
15 Ibid Sch A1 para 4(1) (as added: see note 8 supra).
16 Ibid Sch A1 para 4(2)(a) (as added: see note 8 supra).
17 Ibid Sch A1 para 4(2)(b) (as added: see note 8 supra).
18 Ibid Sch A1 para 5 (as added: see note 8 supra). For the meaning of 'elector', in relation to a parliamentary election, see para 110 note 2 ante.
19 Ibid Sch A1 para 6 (as added: see note 8 supra).
20 Ibid Sch A1 para 7(a) (as added: see note 8 supra).
21 Ibid Sch A1 para 7(b) (as added: see note 8 supra). 'Prescribed' means prescribed by regulations: s 202(1). Accordingly, on completion of a review the authority must publish the following: (1) all correspondence sent to a returning officer in connection with the review (Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, SI 2006/2965, reg 4(a)); (2) all correspondence sent to any person whom the authority thinks has particular expertise in relation to access to premises or facilities for persons who have different forms of disability (reg 4(b)); (3) all representations made by any person in connection with the review (reg 4(c)); (4) the minutes of any meeting held by the authority to consider any revision to the designation of polling districts or polling places within its area as a result of the review (reg 4(d)); (5) details of the designation of polling districts or polling places within its area as a result of the review (reg 4(e)); (6) details of the places where the results of the review have been published (reg 4(f)). See also note 14 supra.
22 Representation of the People Act 1983 s 18E(1), (2)(a) (as added: see note 3 supra).
23 Ibid s 18E(1), (2)(b) (as added: see note 3 supra). As to the questioning of parliamentary elections see para 759 et seq post.

351. Representations made to the Electoral Commission regarding review of parliamentary polling districts and places. If, in relation to a constituency[1] in the area of a relevant authority[2], a relevant representation[3] is made to the Electoral Commission[4] by: (1) an interested authority in England and Wales[5]; (2) not less than 30 electors in the constituency[6]; (3) a person (other than the returning officer) who has made representations in relation to a review of parliamentary polling districts and polling places[7]; (4) a person who is not an elector in a constituency in the authority's area but who the Commission thinks has sufficient interest in the accessibility of disabled persons to polling places in the area or has particular expertise in relation to the access to premises or facilities of disabled persons[8], the Commission must consider such representations (including any observations on the representations which may be made by the returning officer for the constituency) and may, if it thinks fit[9], direct the relevant authority to make any alterations to the polling places designated by the review which the Commission thinks necessary in the circumstances[10]. If the authority fails to make

those alterations before the end of the period of two months starting on the day the direction is given, the Commission may itself make the alterations[11]; and any alterations so made by the Commission have effect as if they had been made by the relevant authority[12].

No election is to be questioned by reason of any non-compliance with the provisions relating to the review of parliamentary polling districts and polling places[13] or any informality relative to polling districts or polling places[14].

1 For the meaning of 'constituency' in the context of a parliamentary election see para 9 ante.
2 As to the relevant authorities for these purposes see para 350 note 3 ante.
3 A relevant representation is a representation that a review under the Representation of the People Act 1983 ss 18A–18B (as added) (see paras 348–349 ante) has not been conducted by a relevant authority so as to meet the reasonable requirements of the electors in the constituency or any body of those electors (s 18D(2)(a) (ss 18D, 18E added by the Electoral Administration Act 2006 s 16(1))), or so as to take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place (Representation of the People Act 1983 s 18D(2)(b) (as so added)).
4 Ibid s 18D(1) (as added: see note 3 supra). As to the Electoral Commission see para 31 et seq ante.
5 Ibid s 18D(1)(a) (as added: see note 3 supra). An interested authority, in relation to a constituency in England, means the council of a parish or, where there is no such council, the parish meeting of a parish which is wholly or partly situated within the constituency (s 18D(6)(a) (as so added)); and, in relation to a constituency in Wales, it means the council of a community which is wholly or partly situated within the constituency (s 18D(6)(b) (as so added)). For the meanings of 'England' and 'Wales' see para 13 note 1 ante. As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq; and as to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.
6 Ibid s 18D(1)(b) (as added: see note 3 supra). The reference in s 18D(1)(b) (as added) to electors does not include persons who have an anonymous entry in the register of parliamentary electors or local government electors: s 18D(7) (as so added). For the meaning of 'elector', in relation to a parliamentary election, see para 110 note 2 ante; and for the meaning of 'anonymous entry', in relation to a register of electors, see para 174 ante.
7 Ibid s 18D(1)(c) (as added: see note 3 supra). The text refers to representations made under s 18C(6), Sch A1 (as added) (see para 350 ante).
8 Ibid s 18D(1)(d) (as added: see note 3 supra).
9 Ibid s 18D(3), (4) (as added: see note 3 supra).
10 Ibid s 18D(4)(a) (as added: see note 3 supra).
11 Ibid s 18D(4)(b) (as added: see note 3 supra).
12 Ibid s 18D(5) (as added: see note 3 supra).
13 Ibid s 18E(1), (2)(a) (as added: see note 3 supra).
14 Ibid s 18E(1), (2)(b) (as added: see note 3 supra). As to the questioning of parliamentary elections see para 759 et seq post.

352. Polling districts and polling stations at local government elections. For elections of county councillors in England[1], and of county or county borough councillors in Wales[2], the appropriate county or county borough council may divide an electoral division[3] into polling districts, and may alter any polling district[4]. For elections of London borough or district councillors[5], the London borough or district council may divide the London borough or district or any ward thereof into polling districts, and may alter any polling district[6]. For any London Authority elections[7], a London borough council or the Common Council of the City of London[8] may divide its area into polling districts and may alter any polling district[9].

Any power to constitute polling districts for the purpose of local government elections[10] must be exercised so that electors from any parliamentary polling district[11] wholly or partly within the electoral area can, in the absence of special circumstances, be allotted to a polling station within the parliamentary polling place for that district unless the parliamentary polling place is outside the electoral area[12].

1 For the meaning of 'England' see para 13 note 1 ante. As to the election of councillors for local government principal areas see para 204 ante. As to counties in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.

2 For the meaning of 'Wales' see para 13 note 1 ante. As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
3 As to electoral divisions established in England and Wales see para 73 ante.
4 Representation of the People Act 1983 s 31(1) (amended by the Local Government Act 1985 s 102(2), Sch 17; and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(6)); Representation of the People Act 1983 s 31(1A) (added by the Local Government (Wales) Act 1994 Sch 16 para 68(6)).
5 As to the London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq.
6 Representation of the People Act 1983 s 31(1).
7 For the meaning of 'Authority election' see para 10 ante.
8 As to the Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq.
9 Representation of the People Act 1983 s 31(1B) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 2). For these purposes, the Inner Temple and the Middle Temple are treated as forming part of the City of London: Representation of the People Act 1983 s 31(1B) (as so added). As to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) para 32 et seq. As to elections in the City of London see para 30 ante.
10 For the meaning of 'local government election' see para 10 ante.
11 As to parliamentary polling districts see para 348 et seq ante. For the meaning of 'elector', in relation to a local government election, see para 110 note 2 ante.
12 Representation of the People Act 1983 s 31(3). In this context, 'electoral area' means an electoral division of a county or a ward of a district or London borough: see para 10 ante.

353. Polling districts and polling places at elections to the National Assembly for Wales. For the purpose of Welsh Assembly elections[1], every Assembly constituency[2] must be divided into polling districts and a polling place must be designated for each polling district[3]. The polling districts and polling places so designated to have effect at Assembly elections must generally be the districts and places that have effect at parliamentary elections[4]. However, where special circumstances make it desirable, the council of a county or county borough[5] may determine that other polling districts or polling places are to have effect in its area at an Assembly election[6].

A Welsh Assembly election cannot be questioned by reason of any non-compliance with these provisions[7] or any informality relative to polling districts or polling places[8].

1 For the meaning of 'Assembly election' see para 3 note 1 ante.
2 For the meaning of 'Assembly constituency' in the context of a Welsh Assembly election see para 3 note 1 ante.
3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 6(1).
4 Ibid art 6(2). As to parliamentary polling districts and polling places see para 348 et seq ante.
5 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 6(3). Any such determination made under art 6(3) must be taken in accordance with the rules set out in the Representation of the People Act 1983 ss 18A, 18B (as added) (see paras 348–349 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 6(4); and see the Interpretation Act 1978 s 17(2)(b).
7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 6(5)(a).
8 Ibid art 6(5)(b). As to the questioning of Welsh Assembly elections see para 762 et seq post.

354. Polling districts and polling places for European parliamentary elections. Every European parliamentary electoral region[1] must be divided into polling districts and a polling place must be designated for each polling district[2]. The polling district and polling places so designated must be the same as those used or designated for parliamentary elections[3], except where it appears to those responsible for the designation of parliamentary polling districts and polling places that special circumstances make it desirable for some other polling district or polling place to be designated[4].

A European parliamentary election cannot be questioned by reason of any non-compliance with these provisions[5] or any informality relative to polling districts or polling places[6].

1 As to electoral regions constituted for the purposes of European parliamentary elections see para 76 ante; and as to European parliamentary elections see para 224 et seq ante.
2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 8(1).
3 As to parliamentary polling districts and polling places see para 348 et seq ante.
4 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 8(2). As to polling districts and polling places designated for each district in Gibraltar for the purposes of a European parliamentary election held in the combined region see reg 8(4). As to elections to the European Parliament held in the combined region see para 76 ante.
5 Ibid reg 8(3)(a).
6 Ibid reg 8(3)(b). As to the questioning of European parliamentary elections see para 763 et seq post.

(iii) Returning Officers

A. PARLIAMENTARY ELECTIONS

355. Returning officers for parliamentary elections. In England and Wales[1], the returning officer for a parliamentary election[2] is:

(1) in the case of a county constituency[3] in England which is coterminous with or wholly contained in a county[4], the sheriff of the county[5];
(2) in the case of a county constituency in Wales which is coterminous with or wholly contained in a preserved county[6], the sheriff of the county[7];
(3) in the case of a borough constituency in England which is coterminous with or wholly contained in a district[8], the chairman of the district council[9];
(4) in the case of a borough constituency in Wales which is coterminous with or wholly contained in a county or county borough[10], the chairman of the county or county borough council[11];
(5) in the case of any other constituency in England wholly outside Greater London[12], such sheriff or chairman of a district council as the Secretary of State[13] may designate in an order made by statutory instrument[14];
(6) in the case of any other constituency in Wales, such sheriff or chairman of a county or county borough council as the Secretary of State may designate in an order made by statutory instrument[15];
(7) in the case of a constituency which is coterminous with or wholly contained in a London borough[16], the mayor of the borough[17];
(8) in the case of a council of a London borough operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive[18], the chairman of the borough[19];
(9) in the case of a constituency wholly or partly in Greater London which is situated partly in one London borough[20] and partly in a district or any other London borough, the mayor of such London borough or the chairman of such district council as the Secretary of State may designate in an order made by statutory instrument[21].

It is the general duty of the returning officer at a parliamentary election to do all such acts and things as may be necessary for effectively conducting the election in the manner provided by the parliamentary election rules[22]. No parliamentary election may be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the parliamentary elections rules[23] if it appears to the tribunal having cognisance of the question[24]: (a) that the election was so conducted as to be substantially in accordance with the law as to elections[25]; and (b) that the act or omission did not affect its result[26].

Nor is a parliamentary election liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election[27]. The execution of the writ for a parliamentary election[28] belongs to the returning officer as such, the office of returning officer being a distinct office from that by virtue of which he becomes returning officer[29]; and where a person enters on an office by virtue of which he becomes returning officer, it belongs to him and not to the outgoing holder of that office to complete the execution of a writ for a parliamentary election previously issued and not yet returned[30].

A public notice which is required by or under the Representation of the People Act 1983 to be given by a returning officer for a parliamentary election must be given by posting the notice in some conspicuous place or places in the constituency and may also be given in such other manner as he thinks desirable for publicising it[31].

A returning officer for a parliamentary election must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for which he acts[32]. In so doing, he must have regard to any guidance issued by the Electoral Commission[33].

1 For the meanings of 'England' and 'Wales' see para 13 note 1 ante.

2 Representation of the People Act 1983 s 24(1). Any reference in any Act (whenever passed) to the returning officer for a parliamentary election or constituency must be taken as a reference to the returning officer appointed under the Representation of the People Act 1983: s 206, Sch 7 para 11. As to the discharge of the returning officer's functions for parliamentary elections see para 356 post. A person is not subject to any incapacity to vote at a parliamentary election by reason of being or acting as returning officer at that election: s 27(3). The provision as respects parliamentary elections is necessary because returning officers were formerly unable to vote at the election for which they acted as returning officers because they decided any equality of votes (which question is now determined by lot: see para 441 post). As to the returning officer's general duty at a parliamentary election to effectively conduct the election in the manner provided by the appropriate rules see para 388 post. For the meaning of 'parliamentary election', and for the meaning of 'constituency' in the context of a parliamentary election, see para 9 ante.

3 As to county constituencies and borough constituencies see para 72 ante.

4 Ie as defined by the Sheriffs Act 1887 s 38 (as amended) (see SHERIFFS vol 42 (Reissue) para 1101).

5 Representation of the People Act 1983 s 24(1)(a) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(3); and the Local Government Changes for England (Miscellaneous Provision) Regulations 1995, SI 1995/1748, reg 8(3)). In the event of the death of a sheriff, the acting returning officer discharges all the duties of sheriff as returning officer at a parliamentary election until another sheriff is appointed and has made the declaration of office: Representation of the People Act 1983 s 28(6). The Sheriffs Act 1887 s 25 (duty of under-sheriff to act as high sheriff in certain cases: see SHERIFFS vol 42 (Reissue) para 1115) does not authorise the under-sheriff to discharge the duties of returning officer at a parliamentary election: Representation of the People Act 1983 s 28(6). As to the acting returning officer at a parliamentary election see para 356 post.

6 Ie as defined by the Local Government (Wales) Act 1994 s 64. As to preserved counties see LOCAL GOVERNMENT vol 29(1) (Reissue) para 1.

7 Representation of the People Act 1983 s 24(1)(aa) (s 24(1)(aa), (bb), (cc) added by the Local Government (Wales) Act 1994 Sch 16 para 68(3)).

8 As to districts in England see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25.

9 Representation of the People Act 1983 s 24(1)(b) (amended by the Local Government (Wales) Act 1994 Sch 16 para 68(3)).

10 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

11 Representation of the People Act 1983 s 24(1)(bb) (as added: see note 7 supra).

12 As to Greater London see LONDON GOVERNMENT vol 29(2) (Reissue) para 29.

13 As to the Secretary of State see para 2 ante.

14 Representation of the People Act 1983 s 24(1)(c) (amended by the Local Government (Wales) Act 1994 Sch 16 para 68(3)). As to the order made see the Returning Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, arts 3, 4A, Sch 1, Sch 2A (art 4A, Sch 2A added by SI 1996/898; the Returning Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, Sch 1 amended by SI 1996/898; SI 1997/537; and the Returning Officers (Parliamentary Constituencies)

(England) Order 1995, SI 1995/2061, Sch 2A amended by SI 1997/537). Before making an order designating returning officers, the authority making the instrument must consult the Electoral Commission: see the Political Parties, Elections and Referendums Act 2000 ss 7(1), (2)(c), 160(1); and para 49 ante. As to the Electoral Commission see para 31 et seq ante.

15 Representation of the People Act 1983 s 24(1)(cc) (as added: see note 7 supra). As to the order made see the Returning Officers (Parliamentary Constituencies) (Wales) Order 2007, SI 2007/171, arts 3–4. See also note 14 supra.

16 As to the London boroughs and their councils see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq.

17 Representation of the People Act 1983 s 24(1)(d).

18 For these purposes, 'executive arrangements', 'mayor and cabinet executive' and 'mayor and council manager executive' have the same meanings as in the Local Government Act 2000 Pt II (ss 10–48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq): Representation of the People Act 1983 s 24(1A) (added, in relation to England, by the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002, SI 2002/1057, arts 2(f), 9(2)). Accordingly, for the meaning of 'executive arrangements' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207; and for the meanings of 'mayor and cabinet executive' and 'mayor and council manager executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.

19 Representation of the People Act 1983 s 24(1)(d); applied by s 21(1)(dd) (added, in relation to England, by the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002, SI 2002/1057, arts 2(f), 9(1)(a)).

20 The City of London, the Inner Temple and the Middle Temple are, for the purposes of the Representation of the People Act 1983 s 24 (as amended), treated as if together they formed a London borough: s 24(1). As to the Temples see LONDON GOVERNMENT vol 29(2) (Reissue) para 32 et seq. As to elections in the City of London see para 30 ante.

21 Ibid s 24(1)(e) (amended, in relation to England, by the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002, SI 2002/1057, arts 2(f), 9(1)(b)). As to the order made see the Returning Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, art 4, Sch 2 (Sch 2 amended by SI 2002/1057). See also note 14 supra.

22 Representation of the People Act 1983 s 23(2). For the meaning of 'parliamentary election rules' see para 388 post.

23 A returning officer for a parliamentary election may take such steps as he thinks appropriate to remedy any act or omission on his part, or on the part of a relevant person, which arises in connection with any function the returning officer or relevant person has in relation to the election, and is not in accordance with the rules or any other requirements applicable to the election: Electoral Administration Act 2006 s 46(1), (3)(a). However, a returning officer may not in exercise of this power recount the votes given at an election after the result has been declared: s 46(2). For these purposes, a 'relevant person' is an electoral registration officer, a presiding officer, a person providing goods or services to the returning officer or a deputy of any such person or a person appointed to assist, or in the course of his employment assisting, such a person in connection with any function he has in relation to the election: s 46(4). Section 46(1)–(4) must be construed as part of the Representation of the People Acts: Electoral Administration Act 2006 s 46(5). For the meaning of the 'Representation of the People Acts' see para 3 note 1 ante.

The provisions of the Electoral Administration Act 2006 s 46 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

24 Representation of the People Act 1983 s 23(3). As to the questioning of parliamentary elections see para 759 et seq post.

25 Ibid s 23(3)(a).

26 Ibid s 23(3)(b).

27 Ibid s 24(2).

28 As to the issue and execution of writs for a parliamentary election see para 199 et seq ante.

29 Representation of the People Act 1983 s 27(1). Since the only duty in connection with the execution of the writ which is to be performed by the returning officer rather than the acting returning officer is the declaration of the result of the poll, and then only if the returning officer by notice reserves that duty to himself (see para 356 post), this provision needs to be read with s 28(4), so that references to the returning officer include, as respects England and Wales, the acting returning officer (see para 356 post). On this interpretation the reference to execution of the writ means doing all the things that are required to elect a member of Parliament. An alternative construction would be to limit the meaning of the reference to the execution of the writ to the declaration of the result of the poll. But this construction presents difficulties when applied to the words 'execution of the writ' in s 27(2): see note 30 infra. The former construction is therefore to be preferred.

30 Ibid s 27(2). If this provision is applied, as respects England and Wales, to the returning officer, the reference to the completion of the execution of the writ for a parliamentary election can refer only to the declaration of the result of the poll since all other remaining duties are discharged by the acting returning officer: see para 356 post. However, those duties can only be discharged by the person who for the time being holds the office of returning officer (s 28(2)(b)) if he has given the notice required by s 28(3), not later than the day following that on which the writ is received (see para 356 post). Accordingly, if s 27(2) is construed as applying to the returning officer, it would produce a conflict with s 28(2)(b), (3) by purporting to allow a person who came into the office of returning officer and who had not given such a notice to make the declaration of the result of the poll. It is therefore submitted that, as respects England and Wales, the provision applies to the acting returning officer. Thus, where a person comes into the office of registration officer and the holder of that office is required by the provisions referred to in para 356 post to be the acting returning officer, it falls to that person and not the previous holder to complete the proceedings on the election.

31 Ibid s 200(1) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 68).

32 Electoral Administration Act 2006 s 69(1), (8)(b), (9)(a). For the meaning of 'elector', in relation to a parliamentary election, see para 110 note 2 ante.

33 Ibid s 69(2).

356. Discharge of returning officer's functions for parliamentary elections. With certain exceptions[1], the duties of the returning officer at a parliamentary election[2] are discharged, as acting returning officer, by[3]:

(1) in the case of a constituency in England[4] for which the chairman of a district council or the mayor or the chairman of a London borough is returning officer[5], the registration officer[6] appointed by that council[7];

(2) in the case of a constituency in Wales[8] for which the chairman of a county or county borough council is returning officer[9], the registration officer appointed by that council[10];

(3) in the case of any other constituency, such registration officer as may be designated in an order made by statutory instrument[11].

The exceptions are any duty imposed on a returning officer in connection with the delivery of the writ of election[12], and any duties in connection with the declaration of the result of the poll[13] which the person, if any, who for the time being holds the office of returning officer reserves to himself and undertakes to perform in person[14]. The returning officer must give to the acting returning officer written notice of any duties which he reserves to himself in connection with the declaration of the result of the poll, and, in the case of any election, only those duties are reserved in relation to which such a notice is given not later than the day following that on which the writ is received[15].

An acting returning officer at a parliamentary election in the discharge of his duties has all the powers, obligations, rights and liabilities of the returning officer under the Representation of the People Act 1983[16], which Act has effect accordingly[17]. An acting returning officer has power to appoint deputies to discharge all or any of those duties[18]; and a district council, London borough council, Welsh county council or county borough council may assign officers to assist in carrying out all or any of those duties[19]. On the death of a sheriff, the acting returning officer discharges all the duties of sheriff as returning officer at a parliamentary election until another sheriff is appointed and has made the declaration of office[20].

1 As to the exceptions see the text and notes 12–14 infra.

2 As to the appointment of returning officers for a parliamentary election see para 355 ante. For the meaning of 'parliamentary election' see para 9 ante. As to the transferred functions of returning officers where polls are combined see para 18 ante.

3 Representation of the People Act 1983 s 28(1).

4 For the meaning of 'constituency' in the context of a parliamentary election see para 9 ante; and for the meaning of 'England' see para 13 note 1 ante.

5 Ie by virtue of the Representation of the People Act 1983 s 24(1) (as amended) (see para 355 ante). A chairman may be designated in the case of a London borough council which is operating executive arrangements involving a mayor and cabinet executive or a mayor and council manager executive (see

LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq). As to districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to the London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq.

6 As to the electoral registration officer see para 154 ante.

7 Representation of the People Act 1983 s 28(1)(a) (amended by the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(4); and in relation to England by the Local Authorities (Executive Arrangements) (Modification of Enactments) (England) Order 2002, SI 2002/1057, arts 2(f), 10).

8 For the meaning of 'Wales' see para 13 note 1 ante.

9 Ie by virtue of the Representation of the People Act 1983 s 24(1) (as amended) (see para 355 ante). As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

10 Ibid s 28(1)(aa) (added by the Local Government (Wales) Act 1994 Sch 16 para 68(4)).

11 Representation of the People Act 1983 s 28(1)(b) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 6(a)). As to the orders that have been made see the Returning Officers (Parliamentary Constituencies) (England) Order 1995, SI 1995/2061, art 5, Sch 3 (Sch 3 amended by SI 1996/898; SI 1999/950); and the Returning Officers (Parliamentary Constituencies) (Wales) Order 2007, SI 2007/171, art 5, Schedule. Before making an order designating acting returning officers, the authority making the instrument must consult the Electoral Commission: see the Political Parties, Elections and Referendums Act 2000 ss 7(1), (2)(c), 160(1); and para 49 ante. As to the Electoral Commission see para 31 et seq ante.

12 Representation of the People Act 1983 s 28(2)(a). The text refers to any duty imposed by s 23(1), Sch 1 r 3 (see para 199 ante).

13 Ie the duty imposed on a returning officer by ibid Sch 1 r 50 (see para 478 post).

14 Ibid s 28(2)(b).

15 Ibid s 28(3).

16 Ibid s 28(4).

17 Ibid s 28(4). It is by virtue of this provision that references in the Representation of the People Act 1983 to the returning officer, except in relation to Sch 1 rr 3, 50 (as to which see the text and notes 12–15 supra), are, as respects England and Wales, to be read as references to the acting returning officer.

18 Ibid s 28(5).

19 Ibid s 28(5) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 6(b); and the Local Government (Wales) Act 1994 Sch 16 para 68(5)).

20 See the Representation of the People Act 1983 s 28(6); and para 355 note 5 ante.

357. Payments by and to returning officer for parliamentary elections. No consideration is to be given by or to a returning officer at a parliamentary election[1] for the making out, receipt, delivery or return of the writ for a parliamentary election[2] or, subject to the provisions made[3], otherwise in connection with its execution[4]. This prohibition, however, does not apply to any inclusive salary payable to a returning officer at a parliamentary election in respect of the office by virtue of which he becomes returning officer[5].

A returning officer is entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with a parliamentary election[6]: (1) if the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the election[7]; and (2) if the total of his charges does not exceed the amount (the 'overall maximum recoverable amount') specified in, or determined in accordance with, an order made by the Secretary of State for these purposes[8]. In any order so made, the Secretary of State may specify, or make provision for determining in accordance with the order, a maximum recoverable amount for services or expenses of any specified description and the returning officer may not recover more than that amount in respect of any such services or expenses[9]. However, the Secretary of State may, in a particular case, authorise the payment of more than the overall maximum recoverable amount[10] or of more than the specified maximum amount for any specified services or expenses[11] if satisfied[12] that it was reasonable for the returning officer concerned to render the services or incur the expenses[13] and that the charges in question are reasonable[14]. On the returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make

such an advance[15]. The amount of any charges recoverable in accordance with these provisions must be charged on and paid out of the Consolidated Fund[16] on an account being submitted to the Secretary of State, but he may if he thinks fit before payment, apply for a detailed assessment to be made of the account[17]. Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under these provisions as part of a returning officer's charges at a parliamentary election, then on an account being submitted to the Secretary of State a sum equal to the increase will be charged on and paid out of the Consolidated Fund to the authority[18]. Regulations may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of the payment of a returning officer's charges[19].

The Secretary of State may also reimburse a returning officer for a parliamentary election in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation[20]. However, the amount so paid must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State[21].

1 For the meaning of 'parliamentary election' see para 9 ante. As to the designation of returning officers for a parliamentary election see para 355 ante.

The Representation of the People Act 1983 s 29 (as amended) is applied with modifications for the purposes of combined polls: see the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 6; and para 18 ante.

2 As to the issue and execution of a writ for a parliamentary election see para 199 et seq ante.

3 Ie the provisions of the Representation of the People Act 1983 s 29(2)–(9) (as amended) (see the text and notes 5–19 infra).

4 Ibid s 29(1).

5 Ibid s 29(2). In practice, this provision applies to the acting returning officer since it is that officer who executes the writ at a parliamentary election. Such an officer is a registration officer and a salary is paid to him by the relevant local authority in respect of that office: see paras 154, 356 ante.

6 Ibid s 29(3) (s 29(3) substituted by the Electoral Administration Act 2006 s 68(1), (2)).

Any amendment effected by the Electoral Administration Act 2006 s 68 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. The commencement of the Electoral Administration Act 2006 s 68 has the effect that the prospective amendments made to the Representation of the People Act 1983 s 29 (as amended) by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (3) and by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 107(1), (2) will not take effect: see the Electoral Administration Act 2006 s 68(4).

7 Representation of the People Act 1983 s 29(3)(a) (as substituted: see note 6 supra). As to the commencement of this provision see note 6 supra.

8 Ibid s 29(3)(b) (as substituted: see note 6 supra). As to the commencement of this provision see note 6 supra. The power to make orders under s 29(3) (as substituted) must be exercised by statutory instrument; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit: s 29(4C) (added by the Representation of the People Act 1991 s 1(2); and amended by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 4). Any exercise by the Secretary of State of his functions under the Representation of the People Act 1983 s 29(3) (as substituted) requires the consent of the Treasury: s 29(9) (added by the Representation of the People Act 1991 s 1(4); substituted by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(6); and amended by the Electoral Administration Act 2006 s 68(1), (3)). As to the order made under these provisions see the Parliamentary Elections (Returning Officers' Charges) Order 2005, SI 2005/780, art 2(1), Schedule. As to the Secretary of State see para 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.

As to where the poll at an election is taken together with the poll at another election see paras 21–29 ante.

9 Representation of the People Act 1983 s 29(3A) (s 29(3A)–(3C) added by the Electoral Administration Act 2006 s 68(1), (2)). As to the commencement of this provision see note 6 supra. As to the order made under these provisions see the Parliamentary Elections (Returning Officers' Charges) Order 2005,

SI 2005/780, art 2, Schedule Part A (maximum recoverable amounts of services of a returning officer), Schedule Part B (expenses of returning officer for which maximum recoverable amounts are specified).

10 Representation of the People Act 1983 s 29(3B)(a) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra.

11 Ibid s 29(3B)(b) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra.

12 Ibid s 29(3B) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra.

13 Ibid s 29(3C)(a) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra.

14 Ibid s 29(3C)(b) (as added: see note 9 supra). As to the commencement of this provision see note 6 supra. As to the order made under these provisions see the Parliamentary Elections (Returning Officers' Charges) Order 2005, SI 2005/780, art 2, Schedule Part C (expenses of returning officer for which no maximum recoverable amounts are specified).

15 Representation of the People Act 1983 s 29(7) (amended by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(2), (5)).

16 As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 711 et seq; PARLIAMENT vol 34 (Reissue) paras 952–955.

17 Representation of the People Act 1983 s 29(5) (amended by the Representation of the People Act 1991 s 1(3); and the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(4)). The text refers to the detailed assessment of a returning officer's account under the Representation of the People Act 1983 s 30 (see para 358 post).

18 Ibid s 29(6) (amended by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(2), (5)).

19 Representation of the People Act 1983 s 29(8) (substituted by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(6)). The regulations are not made by statutory instrument and are not recorded in this work.

20 Electoral Administration Act 2006 s 69(4), (8)(b), (9)(a). As to a returning officer's duty to encourage electoral participation see s 69(1), (2); and para 355 ante.

21 Ibid s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: s 69(6). Such regulations may make different provision for different purposes: s 69(7). The Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which are to come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in England and Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months ending on 31 March: reg 1(2). 'Local electoral officer' means a returning officer for parliamentary elections: Electoral Administration Act 2006 s 69(8)(b), (9)(a).

358. Detailed assessment of returning officer's account at parliamentary elections. On a returning officer's account being submitted to the Secretary of State[1], he may if he thinks fit before payment, apply to the county court for a detailed assessment to be made of the account[2]. Such an application is made by claim form and on issuing the claim form the court will fix a day for the hearing which is a day for proceeding with the detailed assessment if the application is granted[3]. On any such application the county court has jurisdiction to assess the account in such manner and at such time and place as the court thinks fit[4]. Such an application may be heard by the district judge[5].

On any such application, the returning officer may apply to the county court to examine any claim made by any person against him in respect of matters charged in the account[6]. The application must be made in writing and filed, together with a copy of it, within seven days after service on the returning officer of the copy of the application for detailed assessment[7]. On the filing of the returning officer's application, the court officer must fix a day for the hearing and give notice of it to the returning officer[8]. A copy of the returning officer's application and of that notice must be served on the claimant in the manner prescribed[9]. If the county court thinks fit, the examination and the detailed assessment may take place on the same day[10]. The application for an examination may be heard and determined by the district judge[11]. The examination must be determined before the detailed assessment is concluded[12]. The court must give the claimant an opportunity to be heard and to tender any evidence[13].

On the examination of a claim against the returning officer, the county court may allow, disallow or reduce the claim objected to with or without costs, and the court's determination on the examination is final for all purposes and as against all persons[14]. On the detailed assessment, the court has jurisdiction finally to determine the amount payable to the returning officer[15]. A copy of the order made on the application must be served on the Secretary of State and the returning officer and, in the case of an application for examination, on the claimant[16].

1 As to the Secretary of State see para 2 ante. As to the returning officer's charges see para 357 ante.
The Representation of the People Act 1983 ss 29–30 (as amended) are applied with modifications for the purposes of combined polls: see the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, reg 6; and para 18 ante.
2 Representation of the People Act 1983 s 29(5) (amended by the Representation of the People Act 1991 s 1(3); and the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 3(4)); Representation of the People Act 1983 30(1)(a).
3 CPR Sch 2 CCR Ord 45 r 1 (1).
4 Representation of the People Act 1983 s 30(2).
5 CPR Sch 2 CCR Ord 45 r 1(5).
6 Representation of the People Act 1983 s 30(3).
7 CPR Sch 2 CCR Ord 45 r 1(2).
8 CPR Sch 2 CCR Ord 45 r 1(3).
9 CPR Sch 2 CCR Ord 45 r 1(3). The notice must be served on the claimant in the manner set out in CPR r 6.2 (see PRACTICE AND PROCEDURE vol 37 (Reissue) para 317): CPR Sch 2 CCR Ord 45 r 1(3).
10 CPR Sch 2 CCR Ord 45 r 1(4).
11 CPR Sch 2 CCR Ord 45 r 1(5).
12 CPR Sch 2 CCR Ord 45 r 1(4).
13 Representation of the People Act 1983 s 30(3).
14 Ibid s 30(3).
15 Ibid s 30(2).
16 CPR Sch 2 CCR Ord 45 r 1(5).

B. LOCAL GOVERNMENT ELECTIONS

359. Designation of returning officer at local government elections. In England[1], every non-metropolitan county[2] council must appoint an officer of the council to be the returning officer for elections of councillors of the county[3]; and every district council[4] must appoint an officer of the council to be the returning officer for the elections of councillors of the district, and an officer of the council to be the returning officer for elections of councillors of parishes within the district[5]. The returning officer at an election of London borough councillors[6] is the proper officer of the borough[7]. The returning officer at an election of a constituency member of the London Assembly[8] is such a person, or a person of such a description, as may be designated by the Secretary of State[9] in an order made by statutory instrument[10]. The returning officer at any election of the Mayor of London[11], at the election of the London members of the London Assembly at an ordinary election[12], and for the purposes of the return of London members of the London Assembly otherwise than at an election[13], is the proper officer of the Greater London Authority[14]. The council for any London borough must place the services of its officers at the disposal of any person acting as the returning officer at an Authority election[15] for an electoral area[16] situated wholly or partly in the borough[17]; and, at an ordinary election, it is the duty of returning officers for London Authority elections to co-operate with each other in the discharge of their functions[18]. In Wales[19], the council of every county or county borough[20] must appoint an officer of the council to be the returning officer for elections of councillors of the county or county borough[21] and an officer of the council to be the returning officer for elections of councillors of communities within the county or county borough[22]. In relation to an

election for the return of a local authority mayor[23], the returning officer is either the proper officer of the London borough concerned or, as the case may be, the person appointed as the returning officer for a local election held in England and Wales[24] and any person appointed by such a person[25].

A returning officer at any election specified above may by writing under his hand appoint one or more persons to discharge all or any of his functions[26]. No local government election[27] may be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the elections rules[28] if it appears to the tribunal having cognisance of the question[29] that the election was so conducted as to be substantially in accordance with the law as to elections[30] and that the act or omission did not affect its result[31]. Nor is a local government election in England and Wales liable to be questioned[32] by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election[33].

A person is not subject to any incapacity to vote at a local government election by reason of being or acting as returning officer at that election[34].

A public notice which is required by or under the Representation of the People Act 1983 to be given by the proper officer of a local authority at a local government election must be given by posting the notice in some conspicuous place or places in the local government area[35] and may also be given in such other manner as he thinks desirable for publicising it[36].

A returning officer for a local government election must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for which he acts[37]. In so doing, he must have regard to any guidance issued by the Electoral Commission[38].

1 For the meaning of 'England' see para 13 note 1 ante.
2 For the meaning of 'non-metropolitan county' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25.
3 Representation of the People Act 1983 s 35(1) (amended by the Local Government Act 1985 s 102, Sch 16 para 11; and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(7)).
4 As to districts in England see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.
5 Representation of the People Act 1983 s 35(1) (amended by the Local Government (Wales) Act 1994 Sch 16 para 68(7)). As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq.
6 As to the London boroughs and their councils see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq.
7 Representation of the People Act 1983 s 35(3). For the meaning of 'proper officer' see para 155 note 2 ante.
8 For the meanings of 'constituency member' (of the London Assembly) and 'election of a constituency member of the London Assembly' see para 10 ante. As to ordinary elections of constituency members of the London Assembly see para 206 et seq ante. As to constituency members of the London Assembly generally see LONDON GOVERNMENT vol 29(2) (Reissue) para 92; and as to the London Assembly see LONDON GOVERNMENT vol 29(2) (Reissue) para 82.
9 As to the Secretary of State see para 2 ante.
10 Representation of the People Act 1983 s 35(2A), (2B) (s 35(2A)–(2C) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 3(1), (2)). As to the order so made see the Greater London Authority (Assembly Constituencies and Returning Officers) Order 1999, SI 1999/3380, art 2, Table.
11 Representation of the People Act 1983 s 35(2C)(a) (as added: see note 10 supra). For the meaning of 'election of the Mayor of London' see para 10 ante. As to elections for the return of a Mayor of London see para 206 ante. See also LONDON GOVERNMENT vol 29(2) (Reissue) para 90.
12 Ibid s 35(2C)(b) (as added: see note 10 supra). For the meaning of 'London member' see para 10 note 5 ante. As to ordinary elections for the return of the London members of the London Assembly see para 206 et seq ante.
13 Ie for the purposes of the Greater London Authority Act 1999 s 11 (see para 211 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) para 115).
14 Representation of the People Act 1983 s 35(2C)(c) (as added: see note 10 supra). For the meaning of 'proper officer of the Greater London Authority' see LONDON GOVERNMENT vol 29(2) (Reissue) para 83.

15 For the meaning of 'Authority election' see para 10 ante.
16 For the meaning of 'electoral area' see para 10 ante.
17 Representation of the People Act 1983 s 35(6) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 3(1), (3)).
18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 5(1). Where a poll is to be taken for the return of the London members or for the return of the Mayor, it is the duty of constituency returning officers to take, and verify the ballot papers at, the poll (or each poll if both are to be taken) and to count the votes cast in that poll (or each poll, if both are to be taken): r 5(2). Without prejudice to these duties to co-operate, the Greater London returning officer may give to any constituency returning officer directions relating to the discharge of any of the functions of the constituency returning officer, including directions requiring the provision to the Greater London returning officer of any information which the constituency returning officer has or is entitled to have (r 5(3)); and it is the duty of each person to whom such directions are given to discharge his functions in accordance with the directions (r 5(4)). For the meaning of the 'Greater London returning officer' see para 218 note 7 ante; and for the meaning of the 'constituency returning officer' in this context see para 218 note 8 ante.
19 For the meaning of 'Wales' see para 13 note 1 ante.
20 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
21 Representation of the People Act 1983 s 35(1A)(a) (s 35(1A) added by the Local Government (Wales) Act 1994 Sch 16 para 68(7)).
22 Representation of the People Act 1983 s 35(1A)(b) (as added: see note 21 supra). As to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.
23 As to an election for the return of an elected local authority mayor see para 205 ante. See also LOCAL GOVERNMENT vol 29(1) (Reissue) paras 115, 228.
24 Ie the person appointed as the returning officer in accordance with the Representation of the People Act 1983 s 35(1) (as amended) (see the text and notes 1–5 supra) or s 35(1A) (as added) (see the text and notes 19–22 supra).
25 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 2(1). The text refers to any person appointed under the Representation of the People Act 1983 s 35(4) (as amended) (see the text and note 26 infra).
26 Ibid s 35(4) (amended by the Education Reform Act 1988 s 237, Sch 12 para 50).
27 For the meaning of 'local government election' see para 10 ante.
28 Ie the rules under the Representation of the People Act 1983 s 36 (as amended) (see para 388 post). A returning officer for a local government election may take such steps as he thinks appropriate to remedy any act or omission on his part, or on the part of a relevant person, which arises in connection with any function the returning officer or relevant person has in relation to the election, and is not in accordance with the rules or any other requirements applicable to the election: Electoral Administration Act 2006 s 46(1), (3)(b). However, a returning officer may not in exercise of this power recount the votes given at an election after the result has been declared: s 46(2). For these purposes, a 'relevant person' is an electoral registration officer, a presiding officer, a person providing goods or services to the returning officer or a deputy of any such person or a person appointed to assist, or in the course of his employment assisting, such a person in connection with any function he has in relation to the election: s 46(4). Section 46(1)–(4) must be construed as part of the Representation of the People Acts: Electoral Administration Act 2006 s 46(5). For the meaning of the 'Representation of the People Acts' see para 3 note 1 ante.

The amendments effected by the Electoral Administration Act 2006 s 46 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.
29 Representation of the People Act 1983 s 48(1).
30 Ibid s 48(1)(a).
31 Ibid s 48(1)(b).
32 As to the questioning of local government elections see para 760 et seq post.
33 Representation of the People Act 1983 s 35(5).
34 Ibid s 46(2). The provision is necessary because returning officers were formerly unable to vote at the election for which they acted as returning officers because they decided any equality of votes (which question is now determined by lot: see para 441 post).
35 For the meaning of 'local government area' see para 18 note 2 ante.
36 Representation of the People Act 1983 s 200(1A) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 68).
37 Electoral Administration Act 2006 s 69(1), (8)(b), (9)(b). For the meaning of 'elector', in relation to a local government election, see para 110 note 2 ante.
38 Ibid s 69(2). As to the Electoral Commission see para 31 et seq ante.

360. Returning officer's expenses for local elections. All expenditure properly incurred by a returning officer[1] in relation to the holding of an election of a councillor for a principal area[2], or the election of an elected mayor of the council of such an area[3], must be paid by that council in so far as such expenditure does not, in cases where there is a scale fixed for the purpose[4] by the council for that area, exceed that scale[5]. All expenditure properly incurred by a returning officer in relation to the holding of an Authority election[6], in so far as it does not, in cases where there is a scale fixed for the purpose[7] by the Greater London Authority[8], exceed that scale, must be paid by the Greater London Authority[9]. All expenditure properly incurred by a returning officer in relation to the holding of an election of a parish councillor[10], in so far as it does not, in cases where there is a scale fixed for the purpose[11] by the council of the district in which the parish is situated, exceed that scale, must be paid by the district council, but any expenditure so incurred must, if the district council so requires, be repaid to that council by the council of the parish for which the election is held[12]. All the expenditure properly incurred by a returning officer in relation to the holding of an election of a community councillor[13], in so far as it does not, in cases where there is a scale fixed for this purpose[14] by the council of the county or county borough in which the community is situated (the 'principal council'), exceed that scale, must be paid by the principal council, but any expenditure so incurred must, if the principal council so requires, be repaid to that council by the community council[15].

Before a poll is taken at an election of a councillor for any local government area in England and Wales[16], or at an election of an elected mayor of the council of any such area, the council of that area or, in the case of an election of a parish or community councillor, the council which appointed the returning officer must, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require[17]; and before a poll is taken at an Authority election, the Greater London Authority must, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require[18].

The council which is required to pay the expenses properly incurred by a returning officer in relation to any local government election[19] may treat those expenses as including all costs properly incurred by the returning officer in connection with or in contemplation of any legal proceedings arising out of the election (including any criminal proceedings against the returning officer), whether or not the proceedings are in fact instituted[20].

The Secretary of State[21] may reimburse a returning officer for a local government election in England and Wales in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation[22]. However, the amount so paid must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State[23].

1 As to the designation of returning officers at local government elections see para 359 ante. As to expenditure incurred for the purposes of combined polls see para 17 ante.

2 Ie a county, a county borough, a district or a London borough: Representation of the People Act 1983 s 36(4) (amended by the Local Government Act 1985 s 102, Sch 17; and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(9)). As to the election of councillors for local government principal areas see para 204 ante. As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq; and as to the London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq.

3 As to elections for the return of an elected mayor for a local authority see para 205 et seq ante.

4 Ie fixed for the purpose of the Representation of the People Act 1983 s 36 (as amended).

5 Ibid s 36(4); applied and modified by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2.

6 For the meaning of 'Authority election' see para 10 ante.
7 See note 4 supra.
8 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq.
9 Representation of the People Act 1983 s 36(4B) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 4(1), (3)).
10 As to the election of councillors for parish councils see para 207 ante.
11 See note 4 supra.
12 Representation of the People Act 1983 s 36(5) (amended by the Local Government (Wales) Act 1994 s 66(8), Sch 16 para 68(10), Sch 18; and the Local Government Finance (Repeals and Consequential Amendments) Order 1991, SI 1991/1730, art 2(2), Sch 2 Pt I).
13 As to the election of councillors for community councils see para 207 ante.
14 See note 4 supra.
15 Representation of the People Act 1983 s 36(5A) (added by the Local Government (Wales) Act 1994 Sch 16 para 68(10)).
16 For the meaning of 'local government area' see para 18 note 2 ante. For the meanings of 'England' and 'Wales' see para 13 note 1 ante.
17 Representation of the People Act 1983 s 36(6); applied and modified by the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2.
18 Representation of the People Act 1983 s 36(6); applied by s 36(6A) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 4(1), (3)).
19 In relation to an Authority election, the Greater London Authority is treated as the council which is required to pay the expenses properly incurred by the returning officer: Representation of the People Act 1983 s 48(3A) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 9). For the meaning of 'local government election' see para 10 ante.
20 Representation of the People Act 1983 s 48(3).
21 As to the Secretary of State see para 2 ante.
22 Electoral Administration Act 2006 s 69(4), (8)(b), (9)(b). For these purposes, references to a local government election are to be construed in accordance with the Representation of the People Act 1983: Electoral Administration Act 2006 s 69(10). As to a returning officer's duty to encourage electoral participation see s 69(1), (2); and para 359 ante.
23 Ibid s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: s 69(6). Such regulations may make different provision for different purposes: s 69(7). Accordingly, the Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which are to come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in England and Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months ending on 31 March (reg 1(2)); and 'local electoral officer' means a returning officer for local government elections in England and Wales (Electoral Administration Act 2006 s 69(8)(b), (9)(b)).

361. Returning officer and appointment of office at a poll consequent on parish meeting. If a poll consequent on a parish meeting is required to be taken in respect of any appointment to office[1], the chairman of the meeting must notify the district council[2] in which the parish[3] is situated and the council must appoint an officer of the council to be returning officer[4]. The returning officer must appoint an office for the purpose of the poll[5].

Any public notice required to be given by a returning officer for these purposes must be given by the notice being posted in some conspicuous place or places in the parish, and may also be given in such other manner as the returning officer thinks desirable for publicising it[6].

1 As to when such a poll is required to be taken see para 207 ante.
2 As to districts, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.
3 As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq.
4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(1).
5 Ibid r 4(3).
6 Ibid r 5, Schedule r 38(2). Where the poll is held in part only of a parish, any reference to a parish in the rules is to be construed as a reference to part of the parish: Schedule r 38(1).

C. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES

362. Designation of returning officers for elections to the National Assembly for Wales. For the purpose of Welsh Assembly elections[1], there must be a constituency returning officer[2] for each Assembly constituency[3] and a regional returning officer[4] for each Assembly electoral region[5]. A constituency returning officer is a person appointed[6] to be the returning officer for elections of councillors of a county or county borough[7] situated wholly or partly in the Assembly constituency, and (in the case where there is more than one such person)[8] who is for the time being designated by the Assembly as returning officer for the constituency[9]. A regional returning officer is a person appointed[10] to be the returning officer for elections of councillors of a county or county borough situated wholly or partly in the Assembly electoral region[11] and who is for the time being designated by the Assembly as returning officer for the electoral region[12]. Either such designation must be in writing[13].

The council of each county or county borough must place the services of its officers at the disposal of any constituency returning officer for an Assembly constituency wholly or partly situated in its area[14]; and the services so placed at the disposal of a constituency returning officer may relate to the exercise of that officer's functions in connection with a constituency election, a regional election or to both such elections[15]. The council of each county or county borough must also place the services of its officers at the disposal of any regional returning officer for an Assembly electoral region partly situated in its area[16].

A constituency returning officer at a constituency election and either a constituency returning officer or a regional returning officer at an Assembly regional election may, in writing, appoint one or more persons to discharge all or any of his functions[17]. In relation to an ordinary election[18] and to a regional election other than at an ordinary election, it is the duty of each regional returning officer and each constituency returning officer for an Assembly constituency in the Assembly electoral region to co-operate with each other in the discharge of their functions[19]; and this duty applies as between constituency returning officers in an Assembly electoral region as well as between such officers and the regional returning officer for the electoral region[20].

In addition to the functions otherwise conferred or imposed on a constituency or regional returning officer at an Assembly election, it is the general duty of such an officer to do all such acts as may be necessary for effectively conducting the election[21]. No Assembly election may be declared invalid by reason of any act or omission by such a returning officer or any other person in breach of his official duty in connection with the election or otherwise in breach of the election rules[22] if it appears to the election court having cognisance of the question that[23] the election was so conducted as to be substantially in accordance with the law as to Assembly elections[24] and the act or omission did not affect the result[25]. Nor is an Assembly election liable to be questioned[26] by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election[27]. A person is not subject to any incapacity to vote at an Assembly election by reason of being returning officer at that election[28].

A returning officer for an election to the National Assembly for Wales must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for which he acts[29]. In so doing, he must have regard to any guidance issued by the Electoral Commission[30].

1 For the meaning of 'Assembly election' in the context of a Welsh Assembly election see para 3 note 1 ante. As to elections for the return of members of the National Assembly for Wales see para 220 et seq ante.

2 For the meaning of 'constituency returning officer' see para 18 note 2 ante.
3 For the meaning of 'Assembly constituency' in the case of a Welsh Assembly election see para 3 note 1 ante.
4 For the meaning of 'regional returning officer' see para 18 note 2 ante.
5 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 17(1). For the meaning of 'Assembly electoral region' in the case of a Welsh Assembly election see para 3 note 1 ante.
6 Ie under the Representation of the People Act 1983 s 35(1A)(a) (as added) (see para 359 ante).
7 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 17(2)(a).
9 Ibid art 17(2)(b).
10 See note 6 supra.
11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 17(3)(a).
12 Ibid art 17(3)(b).
13 Ibid art 17(4).
14 Ibid art 18(1).
15 Ibid art 18(2). In the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, a reference to a constituency returning officer in relation to the discharge of functions at a regional election is a reference to the discharge of such functions in relation to the Assembly constituency for which he is the returning officer: art 19(5).
16 Ibid art 18(3).
17 Ibid art 19(1), (2).
18 As to ordinary Assembly elections see para 12 ante.
19 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 19(3).
20 Ibid art 19(4).
21 Ibid art 16(2). The text refers to proceedings at Assembly elections and return of Assembly members which must be conducted in accordance with the manner provided by art 16(1), Sch 5 (as amended): art 16(1), (2).
22 Ie or otherwise in breach of ibid Sch 5 (as amended).
23 Ibid art 16(3).
24 Ibid art 16(3)(a).
25 Ibid art 16(3)(b).
26 As to the questioning of Welsh Assembly elections see para 762 et seq post.
27 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 20(1).
28 Ibid art 20(2).
29 Electoral Administration Act 2006 s 69(1), (8)(b), (9)(f). For the meaning of 'elector', in relation to a Welsh Assembly election, see para 124 note 4 ante.
30 Ibid s 69(2). As to the Electoral Commission see para 31 et seq ante.

363. Payments by and to returning officer for elections to the National Assembly for Wales. A constituency returning officer[1] or a regional returning officer[2] is entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for, or in connection with, a Welsh Assembly election[3] if the services or expenses are of a kind specified in an order made by the Assembly[4] and the charges are reasonable[5]. In any order so made, the National Assembly for Wales[6] may specify a maximum recoverable amount for services or expenses of any specified description and the returning officer may not recover more than that amount in respect of any such services or expenses[7], except that the Assembly may, in a particular case, authorise the payment of more than the specified amount for any specified services or expenses if satisfied[8] that it was reasonable for the returning officer concerned to render the services or incur the expenses[9] and that the charges in question are reasonable[10]. Any order which specifies the maximum amount for services or expenses of a particular description[11] may provide for that amount to increase at such dates, or after such periods, by reference to such formula or other method of determination as may be specified in the order[12] and make such transitional provision in connection with any such increase as the Assembly considers appropriate[13]. On a returning officer's request for an advance on account of his charges, the Assembly may, on such terms as it thinks fit, make such an advance[14].

The Assembly must pay the amount of any charges recoverable in accordance with these provisions on an account being submitted to it but the Assembly may if it thinks fit, before payment, apply for a detailed assessment of the account[15]. Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under these provisions as part of a returning officer's charges at an Assembly election, then, on an account being submitted to the Assembly, a sum equal to the increase must be paid by the Assembly to the authority[16]. The Assembly by regulations may make provision as to the time when and the manner and form in which accounts are to be rendered to the Assembly for the purpose of the payment of a returning officer's charges; and such regulations may make different provision for constituency elections (on the one hand) and regional elections (on the other)[17].

The Secretary of State may reimburse a returning officer for an election to the National Assembly for Wales in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation[18]. However, the amount so paid must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State[19].

1 For the meaning of 'constituency returning officer' see para 18 note 2 ante. As to the designation of returning officers for elections to the National Assembly for Wales see para 362 ante.
2 For the meaning of 'regional returning officer' see para 18 note 2 ante.
3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 21(1). For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections for the return of members of the National Assembly for Wales see para 220 et seq ante.
4 Ibid art 21(1)(a). In the case of a constituency returning officer, art 21 applies to services rendered or expenses incurred for, or in connection with, a constituency or a regional election: art 21(1).

Any order under art 21(1) may make different provision for constituency elections (on the one hand) and regional elections (on the other): art 21(5). The power to make such orders must be exercised by statutory instrument: art 21(6). As to the order so made see the National Assembly for Wales (Returning Officers' Charges) Order 2006, SI 2006/3268, art 3, Schedule. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.
5 Ibid art 21(1)(b).
6 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 2(1), 21(2). As to the order so made see the National Assembly for Wales (Returning Officers' Charges) Order 2006, SI 2006/3268, art 3, Schedule Pt I (services of a constituency or a regional returning officer for which maximum recoverable amounts are specified), Schedule Pt II (expenses of a constituency or a regional returning officer for which maximum recoverable amounts are specified). See also Schedule Pt III (expenses of a constituency or a regional returning officer for which no maximum recoverable amounts are specified).
8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 21(3).
9 Ibid art 21(3)(a).
10 Ibid art 21(3)(b).
11 Ie any order under ibid art 21(1) (see the text and notes 1–5 supra).
12 Ibid art 21(4)(a).
13 Ibid art 21(4)(b).
14 Ibid art 21(9).
15 Ibid art 21(7). The text refers to a detailed assessment conducted under art 22 (see para 364 post).
16 Ibid art 21(8).
17 Ibid art 21(10).
18 Electoral Administration Act 2006 s 69(4), (8)(b), (9)(f). As to the duty of a returning officer for an election to the National Assembly for Wales to encourage electoral participation see s 69(1), (2); and para 362 ante. As to the Secretary of State see para 2 ante.
19 Ibid s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: s 69(6). Such regulations may make different provision for different purposes: s 69(7). Accordingly, the Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which are to come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation

(Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months ending on 31 March (reg 1(2)); and 'local electoral officer' means a returning officer for elections to the National Assembly for Wales (Electoral Administration Act 2006 s 69(8)(b), (9)(f)).

364. Detailed assessment of returning officer's account at elections to the National Assembly for Wales. On a returning officer's account being submitted to the National Assembly for Wales[1], the Assembly may if it thinks fit before payment, apply to the county court for a detailed assessment to be made of the account[2]. Such an application is made by claim form and on issuing the claim form the court will fix a day for the hearing which is a day for proceeding with the detailed assessment if the application is granted[3]. On any such application the county court has jurisdiction to assess the account in such manner and at such time and place as the court thinks fit[4]. Such an application may be heard by the district judge[5].

On any such application, the returning officer[6] may apply to the county court to examine any claim made by any person against him in respect of matters charged in the account[7]. The application must be made in writing and filed, together with a copy of it, within seven days after service on the returning officer of the copy of the application for detailed assessment[8]. On the filing of the returning officer's application, the court officer must fix a day for the hearing and give notice of it to the returning officer[9]. A copy of the returning officer's application and of that notice must be served on the claimant in the manner prescribed[10]. If the county court thinks fit, the examination and the detailed assessment may take place on the same day[11]. The application for an examination may be heard and determined by the district judge[12]. The examination must be determined before the detailed assessment is concluded[13]. The court must give the claimant an opportunity to be heard and to tender any evidence[14].

On the examination of a claim against the returning officer, the county court may allow, disallow or reduce the claim objected to with or without costs, and the court's determination on the examination is final for all purposes and as against all persons[15]. On the detailed assessment, the court has jurisdiction finally to determine the amount payable to the returning officer[16]. A copy of the order made on the application must be served on the National Assembly for Wales[17] and the returning officer and, in the case of an application for examination, on the claimant[18].

1 As to the returning officer's charges see para 363 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 21(7), 22(1).
3 CPR Sch 2 CCR Ord 45 r 1 (1). CPR Sch 2 CCR Ord 45 r 1 has effect in relation to applications made under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 22: art 22(4).
4 Ibid art 22(2).
5 CPR Sch 2 CCR Ord 45 r 1(5).
6 For these purposes, the references to returning officers must be construed as including references to constituency returning officers in relation to a constituency election and constituency and regional returning officers in relation to a regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 22(4)(b). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' in this context see para 18 note 2 ante.
7 Ibid art 22(3).
8 CPR Sch 2 CCR Ord 45 r 1(2).
9 CPR Sch 2 CCR Ord 45 r 1(3).
10 CPR Sch 2 CCR Ord 45 r 1(3). The notice must be served on the claimant in the manner set out in CPR r 6.2 (see PRACTICE AND PROCEDURE vol 37 (Reissue) para 317): CPR Sch 2 CCR Ord 45 r 1(3) (amended by SI 2001/2792).
11 CPR Sch 2 CCR Ord 45 r 1(4).
12 CPR Sch 2 CCR Ord 45 r 1(5).
13 CPR Sch 2 CCR Ord 45 r 1(4).

14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 22(3).
15 Ibid art 22(3).
16 Ibid art 22(2).
17 For these purposes, the references in CPR Sch 2 CCR Ord 45 r 1 to the Secretary of State must be construed as including references to the National Assembly for Wales: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 22(4)(a).
18 CPR Sch 2 CCR Ord 45 r 1(5).

D. EUROPEAN PARLIAMENTARY ELECTIONS

365. Designation of returning officers and local returning officers for European parliamentary elections. There must be a returning officer for each European parliamentary electoral region[1]. For a region in England[2] and Wales[3], the returning officer is to be a person who[4] is, in relation to a parliamentary election[5], an acting returning officer[6] and is designated for these purposes by order of the Secretary of State[7]; and the local returning officer for a local counting area[8] is the person who, in relation to a parliamentary election, is the acting returning officer for the parliamentary constituency which is coterminous with the local counting area[9].

The Secretary of State may by regulations confer functions on the returning officers for the electoral regions and on local returning officers[10]. Accordingly, the local returning officer for each local counting area wholly or partly comprised in an electoral region is responsible for[11]: (1) the conduct of the poll in that area[12]; (2) unless the returning officer otherwise directs, the printing of the ballot papers[13]; (3) the issue and receipt of postal ballot papers for electors in that area and their proxies[14]; (4) the verification of the ballot paper accounts[15]; and (5) the counting of the votes given in that area[16].

Where such regulations confer functions on a person in relation to an electoral region other than the combined region[17], the council of a district or London borough in England[18] and a county or county borough in Wales[19] falling wholly or partly within that region[20] must place the services of their officers at his disposal for the purpose of assisting him in the discharge of those functions[21]. A returning officer and a local returning officer may, in writing, appoint deputies to discharge all or any of the functions imposed on them[22]; and a returning officer may appoint such clerks as may be necessary to assist him in his functions in relation to an election[23]. The returning officer may give to any local returning officer for a local counting area in the electoral region for which he acts directions relating to the discharge of his functions, including directions requiring the provision to him of any information which that person has or is entitled to have[24]; and it is the duty of any local returning officer to whom directions are so given to discharge his functions in accordance with the directions[25].

It is the general duty of a returning officer and the local returning officer at a European parliamentary election to do all such acts and things as may be necessary for effectively conducting the election in accordance with the European parliamentary elections rules[26]. No European parliamentary election may be declared invalid by reason of any act or omission by the returning officer and the local returning officer or any other person in breach of his official duty in connection with the election or otherwise in breach of the election rules[27] if it appears to the tribunal having cognisance of the question that[28] the election was so conducted as to be substantially in accordance with the law as to European parliamentary elections[29] and the act or omission did not affect the result[30]. Nor is a European parliamentary election liable to be questioned[31] by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election[32].

A returning officer for a European parliamentary election must take such steps as he thinks appropriate to encourage the participation by electors in the electoral process in the area for which he acts[33]. In so doing, he must have regard to any guidance issued by the Electoral Commission[34].

1 European Parliamentary Elections Act 2002 s 6(1). As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante; and as to European parliamentary elections see para 224 et seq ante.
2 Ie including for the purposes of a European parliamentary election held in the combined region. As to elections to the European Parliament held in the combined region see para 76 ante. For the meaning of 'England' see para 13 note 1 ante.
3 For the meaning of 'Wales' see para 13 note 1 ante.
4 European Parliamentary Elections Act 2002 s 6(2) (amended by the European Parliament (Representation) Act 2003 s 20(1), (2)).
5 Ie by virtue of the Representation of the People Act 1983 s 28(1) (as amended) (see para 356 ante).
6 European Parliamentary Elections Act 2002 s 6(2)(a).
7 Ibid s 6(2)(b). As to the order so made see the European Parliamentary Elections (Returning Officers) Order 2004, SI 2004/1056, arts 3, 5, Schedule. As to the Secretary of State see para 2 ante; and as to the making of orders under the European Parliamentary Elections Act 2002 generally see para 13 note 12 ante.
8 For the meaning of 'local counting area' see para 230 note 11 ante.
9 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 6(2).
10 European Parliamentary Elections Act 2002 s 6(5) (substituted by the European Parliament (Representation) Act 2003 s 20(1), (3). For these purposes, 'local returning officer' means a person who is, in relation to parliamentary elections, an acting returning officer in England and Wales: European Parliamentary Elections Act 2002 s 6(5A)(a) (s 6(5A) added by the European Parliament (Representation) Act 2003 s 20(1), (3)). As to the meaning of 'local returning officer' in relation to elections to the European Parliament held in the combined region see the European Parliamentary Elections Act 2002 s 6(5A)(b) (as so added); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 6(3).
11 Ibid reg 6(1).
12 Ibid reg 6(1)(a). As to the conduct of the poll see para 388 et seq post.
13 Ibid reg 6(1)(b). As to the form and printing of ballot papers see para 391 post.
14 Ibid reg 6(1)(c). As to the issue and receipt of postal ballot papers see para 411 et seq post.
15 Ibid reg 6(1)(d). As to the verification of ballot paper accounts at a European parliamentary election see paras 468–469 post.
16 Ibid reg 6(1)(e). As to the counting of votes at a European parliamentary election see para 470 et seq post.
17 As to the combined region itself see the European Parliamentary Elections Act 2002 s 6(7)(b) (s 6(7) amended by the European Parliament (Representation) Act 2003 s 20(1), (4)).
18 As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to the London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq.
19 As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
20 European Parliamentary Elections Act 2002 s 6(7)(a), (8) (s 6(7) as amended: see note 17 supra).
21 Ibid s 6(7) (as amended: see note 17 supra).
22 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 7(1). The text refers to functions imposed both under the European Parliamentary Elections Regulations 2004, SI 2004/293 (as amended) and under the provisions applied by those regulations.
23 Ibid reg 7(2).
24 Ibid reg 9(3).
25 Ibid reg 9(4).
26 Ibid reg 9(2). For the meaning of 'European parliamentary elections rules' see para 388 post.
27 Ie in breach of ibid Sch 1 (as amended).
28 Ibid reg 9(5).
29 Ibid reg 9(5)(a).
30 Ibid reg 9(5)(b).
31 As to the questioning of European parliamentary elections see para 763 et seq post.
32 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 14.
33 Electoral Administration Act 2006 s 69(1), (8)(b), (9)(c).
34 Ibid s 69(2). As to the Electoral Commission see para 31 et seq ante.

366. Payments by and to returning officer for European parliamentary elections. A returning officer or local returning officer at a European parliamentary election[1] is entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with such an election if[2] the services or expenses are of a kind specified in an order made by the Secretary of State[3] and the charges are reasonable[4]. In any order so made the Secretary of State may specify a maximum recoverable amount for services or expenses of any specified description and the returning officer or local returning officer may not recover more than that amount in respect of any such services or expenses[5], except that, in a particular case, he may authorise the payment of more than the specified maximum amount for any specified services or expenses if satisfied[6] that it was reasonable for the returning officer or local returning officer concerned to render the services or incur the expenses[7] and that the charges in question are reasonable[8]. Any order which specifies a maximum amount for services or expenses of a particular description may[9] provide for that amount to increase at prescribed dates, or after prescribed periods, by reference to such formula or other method of determination as may be specified in the order[10] and make such transitional provision in connection with any such increase as the Secretary of State considers appropriate[11]. On the returning officer's or local returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make such an advance[12].

The amount of any charges so recoverable must be charged on and paid out of the Consolidated Fund[13] on an account being submitted to the Secretary of State, but the Secretary of State may, if he thinks fit, before payment apply for a detailed assessment of the account[14]. Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid as part of a returning officer's or local returning officer's charges at a European parliamentary election, then on an account being submitted to the Secretary of State a sum equal to the increase may be charged on and paid out of the Consolidated Fund to the authority[15]. Regulations by the Secretary of State may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of the payment of a returning officer's or local returning officer's charges, and may include different provision for different cases, circumstances or areas[16].

The Secretary of State may also reimburse a returning officer for a European parliamentary election in respect of any expenditure incurred by the officer for the purposes of encouraging electoral participation[17]. However, the amount so paid must not in any year exceed such amount as is determined in accordance with regulations made by the Secretary of State[18].

1 As to European parliamentary elections see para 224 et seq ante; and as to the designation of returning officers and local returning officers at a European parliamentary election see para 365 ante.

2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(1).

3 Ibid reg 15(1)(a). The power to make orders under reg 15(1) is exercised by statutory instrument, and the Statutory Instruments Act 1946 s 1 (as amended) (definition of statutory instrument: see STATUTES vol 44(1) (Reissue) para 1503) applies accordingly; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(5). Any exercise by the Secretary of State of his functions under reg 15(1), (2) requires the consent of the Treasury: reg 15(10). As to the orders so made see the European Parliamentary Elections (Returning Officers' Charges) (Great Britain and Gibraltar) Order 2004, SI 2004/1298, art 4, Schedule; and the European Parliamentary Elections (Local Returning Officers' Charges) (Great Britain and Gibraltar) Order 2004, SI 2004/1299, art 4, Schedule. As to the Secretary of State see para 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.

4 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(1)(b).

5 Ibid reg 15(2). As to the orders so made see the European Parliamentary Elections (Returning Officers' Charges) (Great Britain and Gibraltar) Order 2004, SI 2004/1298, art 4, Schedule Pt A (maximum recoverable amounts for services of returning officer), Schedule Pt B (expenses of returning officer for which maximum recoverable amounts are specified); and see Schedule Pt C (expenses of returning officer for which no maximum recoverable amounts are specified). See also the European Parliamentary Elections (Local Returning Officers' Charges) (Great Britain and Gibraltar) Order 2004, SI 2004/1299, art 4, Schedule Pt A (maximum recoverable amounts for services of local returning officer), Schedule Pt B (expenses of local returning officers for which maximum recoverable amounts are specified); and see Schedule Pt C (expenses of local returning officer for which no maximum recoverable amounts are specified).

6 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(3).

7 Ibid reg 15(3)(a).

8 Ibid reg 15(3)(b).

9 Ibid reg 15(4).

10 Ibid reg 15(4)(a).

11 Ibid reg 15(4)(b).

12 Ibid reg 15(8).

13 As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 711 et seq; PARLIAMENT vol 34 (Reissue) paras 952–955.

14 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(6). The text refers to a detailed assessment under reg 16 (see para 367 post). Any charges to which persons on whom functions are conferred under the European Parliamentary Elections Act 2002 s 6(5) (as substituted) are entitled under regulations under the European Parliamentary Elections Act 2002 (see para 365 ante) and any sums required by the Secretary of State for expenditure on the provision of training relating to functions so conferred are to be charged on, and paid out of, the Consolidated Fund: s 6(6).

15 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 15(7).

16 Ibid reg 15(9). The regulations so made are not made by statutory instrument and are not recorded in this work.

17 Electoral Administration Act 2006 s 69(4), (8)(b), (9)(c). As to the duty of a returning officer for a European parliamentary election to encourage electoral participation see s 69(1), (2); and para 365 ante.

18 Ibid s 69(5). The power to make such regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: s 69(6). Such regulations may make different provision for different purposes: s 69(7). Accordingly, the Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, which are to come into force on 1 April 2007, provide that the total amount that may be paid to local electoral officers in England and Wales in pursuance of the Electoral Administration Act 2006 s 69(4) in the year ending on 31 March 2008 and each successive year is £2,500,000: Encouraging Electoral Participation (Reimbursement of Expenses) (England and Wales) Regulations 2006, SI 2006/2972, reg 2. For these purposes, 'year' means a period of 12 months ending on 31 March (reg 1(2)); and 'local electoral officer' means a returning officer for European parliamentary elections (Electoral Administration Act 2006 s 69(8)(b), (9)(c)).

367. Detailed assessment of returning officer or local returning officer's account at European parliamentary elections. On an account of a returning officer or a local returning officer at a European parliamentary election being submitted to the Secretary of State[1], he may if he thinks fit before payment, apply to the county court for a detailed assessment to be made of the account[2]. On any such application the county court has jurisdiction to assess the account in such manner and at such time and place as the court thinks fit[3].

On any such application, the returning officer or local returning officer may apply to the county court to examine any claim made by any person against him in respect of matters charged in the account[4]; and the court must give the claimant an opportunity to be heard and to tender any evidence[5]. On the examination of a claim against the returning officer, the county court may allow, disallow or reduce the claim objected to with or without costs, and the court's determination on the examination is final for all purposes and as against all persons[6]. On the detailed assessment, the court has jurisdiction finally to determine the amount payable to the returning officer[7].

1 As to returning officers and local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante; and as to the returning officer or local returning officer's charges see para 366 ante. As to the Secretary of State see para 2 ante. As to European parliamentary elections see para 224 et seq ante.
2 European Parliamentary Elections Regulations 2004, SI 2004/293, regs 15(6), 16(1). As to an account which relates to the whole of the combined region see reg 16(4). As to the combined region see para 76 ante.
3 Ibid reg 16(2).
4 Ibid reg 16(3).
5 Ibid reg 16(3).
6 Ibid reg 16(3).
7 Ibid reg 16(2).

(iv) Manner of Voting at Elections

A. VOTING OPTIONS

368. Manner of voting at a parliamentary or local government election. A person entitled to vote as an elector at a parliamentary or local government election[1] may vote in person at the polling station allotted to him[2], unless he is entitled as an elector to an absent vote at the election[3]. If he is entitled as an elector to vote by post at the election, he may vote by post[4]. If he is entitled to vote by proxy at the election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the appropriate rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there[5]. If he is not entitled as an elector to an absent vote at the election[6] but he cannot reasonably be expected to go in person to the polling station allotted to him under the appropriate rules by reason of the particular circumstances of his employment, either as a constable or by the returning officer, on the date of the poll for a purpose connected with the election[7], he may vote in person at any polling station in the constituency or, as the case may be, electoral area[8].

Subject to these provisions, a person is not entitled to vote as a parliamentary elector more than once in the same constituency at any parliamentary election or in more than one constituency at a general election[9]. At a local government election for any electoral area (except in relation to Authority elections[10]) no person as an elector and no person as proxy for any one elector[11] may give more than one vote for any one candidate[12] or give more votes in all than the total number of councillors to be elected for the electoral area[13]. Each person entitled to vote as an elector at a London Authority ordinary election[14] has one vote (a 'mayoral vote') which may be given for a candidate to be the Mayor of London[15], one vote (a 'constituency vote') which may be given for a candidate to be the Assembly member for the Assembly constituency[16] and one vote (a 'London vote') which may be given for either a registered political party[17] which has submitted a list of candidates to be London members[18] or an individual who is a candidate to be a London member[19]. At an election for an elected local authority mayor[20], each person entitled to vote as an elector has one vote which may be given for the voter's first preference from among the candidates to be the elected mayor[21] but a person is not entitled as an elector to cast more than one first preference vote (or, where it applies, more than one second preference vote) at an election for the return of an elected mayor[22].

1 For the meaning of 'elector' in relation to a parliamentary or local government election see para 110 note 2 ante. For the meaning of 'parliamentary election' see para 9 ante. 'Local government election' means a local government election in England or Wales: Representation of the People Act 2000 s 12, Sch 4 para 1(1). For the meaning of 'local government election' see para 10 ante; definition applied by virtue of Sch 4 para 1(2).

However, nothing in Sch 4 para 2(1)–(5) (see the text and notes 2–8 infra) applies to a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see para 134 ante) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether he is registered by virtue of that provision or not: Representation of the People Act 2000 Sch 4 para 2(5A) (added by the Electoral Administration Act 2006 s 35(1), (2), (4)).Such a person may vote either in person (where he is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that permission) or by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election): Representation of the People Act 2000 Sch 4 para 2(5A) (as so added). Nor does anything in Sch 4 para 2(1)–(5) apply to a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see para 135 ante) applies (Representation of the People Act 2000 Sch 4 para 2(6)(b)), whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election) (Sch 4 para 2(6)). As to voting by proxy see para 379 et seq post.

2 Ie under the appropriate rules. For these purposes, the 'appropriate rules' means, in the case of a parliamentary election, the parliamentary elections rules and, in the case of a local government election, rules made (or having effect as if made) under the Representation of the People Act 1983 s 36 (as amended) (see para 388 post): Representation of the People Act 2000 Sch 4 para 1(1). For the meaning of 'parliamentary elections rules' see para 388 post; definition applied by virtue of Sch 4 para 1(2). As to the provision and allotment of polling stations see para 395 post.

3 Ibid Sch 4 para 2(1), (2). This provision does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of the Representation of the People Act 1983 s 23(1), Sch 1 r 40(1ZC), (1ZE) (as added) (see para 408 post): Representation of the People Act 2000 Sch 4 para 2(6A) (added by the Electoral Administration Act 2006 s 38(6)(a)). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended) and the Representation of the People Act 1983, so far as it has effect in relation to England and Wales, a person entitled to vote as an elector at a parliamentary or local government election is entitled as an elector to vote by post or is entitled to vote by proxy at the election if the Representation of the People Act 2000 Sch 4 para 2(8) or Sch 4 para 2(9) (as added) applies to him in relation to the election: Sch 4 para 2(7) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 para 137(1), (3)(a)). The Representation of the People Act 2000 Sch 4 para 2(8) (as added) applies to a person who is shown in the postal voters list mentioned in Sch 4 para 5(2) (as amended) (see para 378 post) as entitled to vote by post at an election: Sch 4 para 2(8) (Sch 4 para 2(8), (9) added by the Electoral Administration Act 2006 Sch 1 para 137(1), (3)(b)). The Representation of the People Act 2000 Sch 4 para 2(9) (as added) applies to a person who is shown in the list of proxies mentioned in Sch 4 para 5(3) (see para 378 post) as entitled to vote by proxy at an election: Sch 4 para 2(9) (as so added). As to the postal voters list and the list of proxies see para 378 post.

Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 Representation of the People Act 2000 Sch 4 para 2(1), (3).

5 Ibid Sch 4 para 2(1), (4).

6 Ibid Sch 4 para 2(1), (5)(a).

7 Ibid Sch 4 para 2(1), (5)(b). As to the date of the poll at a parliamentary general election or by-election see para 202 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante.

8 Ibid Sch 4 para 2(1), (5). For the meaning of 'constituency' in the context of a parliamentary election see para 9 ante; and for the meaning of 'electoral area' see para 18 note 2 ante.

9 See the Representation of the People Act 1983 s 1(2) (as substituted); and para 110 ante.

10 For the meaning of 'Authority election' see para 10 ante.

11 Representation of the People Act 1983 s 46(1) (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 8).

12 Representation of the People Act 1983 s 46(1)(a).

13 Ibid s 46(1)(b).

14 As to London Assembly ordinary elections see para 206 et seq ante. As to filling vacancies arising in the office of Mayor of London or in membership of the London Assembly see para 211 ante.

15 Greater London Authority Act 1999 s 4(1)(a). However, if there are three or more candidates to be Mayor of London, a supplementary vote system operates and a voter's mayoral vote will be a vote capable of being given to indicate the voter's first and second preferences from among the candidates: see further para 346 ante. As to elections for the return of a Mayor of London see para 206 ante. See also LONDON GOVERNMENT vol 29(2) (Reissue) para 90.

16 Ibid s 4(1)(b). An Assembly member for an Assembly constituency is returned under the simple majority system: s 4(4). For the meanings of 'Assembly constituency' and 'constituency member' in the context of elections to the London Assembly see para 10 ante. As to elections for the return of constituency members of the London Assembly see para 206 et seq ante.

17 For the meaning of 'registered political party' in this context see para 233 note 16 ante.

18 For the meaning of 'London member' (of the London Assembly) see para 10 note 5 ante. As to the submission of lists of candidates to be London members of the London Assembly see para 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see para 262 note 24 ante.

19 Greater London Authority Act 1999 s 4(1)(c), (5). As to elections for the return of the London members of the London Assembly see para 206 et seq ante; and as to individual candidates to be London members of the London Assembly see para 233 ante.

20 As to elections for the return of an elected local authority mayor see para 205 ante.

21 However, if there are three or more candidates to be the elected mayor, a supplementary vote system operates and another vote (in addition to the first preference vote) is capable of being given to indicate the voter's second preference from among the candidates: see further para 346 ante.

22 See the Local Government Act 2000 ss 42(1), 43(2); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 228.

369. Manner of voting at an election to the National Assembly for Wales. A person entitled to vote as an elector at a Welsh Assembly election[1] may vote in person at the polling station allotted to him[2], unless he is entitled as an elector to an absent vote at the Assembly election[3]. If he is entitled as an elector to vote by post at the Assembly election, he may vote by post[4]. If he is entitled to vote by proxy at the Assembly election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him for a ballot paper for the purposes of voting in person, in which case he may vote in person there[5]. If he is not entitled as an elector to an absent vote at the Assembly election but cannot reasonably be expected to go in person to the polling station allotted to him, by reason of the particular circumstances of his employment as a constable, by a constituency returning officer[6] (in the case of a constituency election[7]), by a regional returning officer[8] (in the case of a regional election[9]) or by a constituency returning officer (in the case of a regional election where that officer is exercising functions in relation to the election), on the date of the poll for a purpose connected with the election, he may vote in person at any polling station in the Assembly constituency for which the election is being held, in the case of a constituency election, or in which he is entitled to give his vote, in the case of a regional election[10]. But if a person is employed at an ordinary election[11] for a purpose connected with only one of two elections at which he is entitled to give a vote, he is treated for these purposes as employed for a purpose connected with both elections; provided that, if a person is so treated, in exercising the right so conferred to vote in person at any polling station, those votes will be given at the same polling station[12].

Each person entitled to vote at a general election in an Assembly constituency[13] has two votes[14]: one (a 'constituency vote') is a vote which may be given for a candidate to be the Assembly constituency member for the Assembly constituency[15]; the other (an 'electoral region vote') is a vote which may be given for either a registered political party[16] which has submitted a list of candidates to be Assembly regional members for the Assembly electoral region[17] in which the Assembly constituency is included[18] or an individual who is a candidate to be an Assembly regional member[19] for that Assembly electoral region[20]. The Assembly constituency member for the Assembly constituency is to be returned under the simple majority system[21]; and the Assembly regional members for the Assembly electoral region are to be returned under the additional member system of proportional representation[22].

However, a person is not entitled as an elector to cast more than one constituency vote or more than one electoral region vote in the same Assembly constituency at any

general election[23], to vote in more than one Assembly constituency at any general election[24], or to cast more than one vote in any election held to fill a vacancy in a constituency seat[25].

1 For these purposes, a person entitled to vote as an elector at an Assembly election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references in those provisions to entitlement as an elector to an absent vote at an Assembly election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(8). For the meaning of the 'absent voters list' see para 378 note 6 post. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections for the return of members of the National Assembly for Wales see para 220 et seq ante. As to voting by proxy see para 379 et seq post.

However, nothing in art 7(1)–(6) (see the text and notes 2–12 infra) applies to: (1) a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see para 134 ante) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(7)(a)); or (2) a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see para 135 post) applies (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(7)(b)), whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election) (art 7(7)).

2 Ie under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284. As to the provision and allotment of polling stations see para 395 post.

3 Ibid art 7(1), (2).

4 Ibid art 7(1), (3).

5 Ibid art 7(1), (4).

6 For the meaning of 'constituency returning officer' see para 18 note 2 ante. As to the designation of returning officers for elections to the National Assembly for Wales see para 362 ante.

7 For the meaning of 'constituency election' in the context of Welsh Assembly elections see para 3 note 1 ante.

8 For the meaning of 'regional returning officer' see para 18 note 2 ante.

9 For the meaning of 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(5). As to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante.

11 As to ordinary general elections for the National Assembly for Wales see para 12 et seq ante.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 7(6).

13 For the meaning of 'Assembly constituency' in the case of a Welsh Assembly election see para 3 note 1 ante.

14 Government of Wales Act 2006 s 6(1). The provisions of the Government of Wales Act 2006 come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 4(1).

15 Government of Wales Act 2006 s 6(2). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(2). For the meaning of 'Assembly constituency member' in the case of a Welsh Assembly election see para 12 ante.

16 For the meaning of 'registered political party' in this context see para 234 note 4 ante.

17 For the meaning of 'Assembly electoral region' in the case of a Welsh Assembly election see para 3 note 1 ante. For the meaning of 'Assembly regional member' in the context of a Welsh Assembly regional election see para 12 ante; and for the meaning of 'party list candidate' see para 237 note 23 ante. As to the submission of lists of candidates to be members for a Welsh Assembly region see para 234 ante.

18 Government of Wales Act 2006 s 6(3)(a). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(3)(a).

19 For the meaning of 'individual candidate' in the context of a Welsh Assembly regional election see para 237 note 23 ante. As to individual candidates to be members for a Welsh Assembly region see also para 234 ante.

20 Government of Wales Act 2006 s 6(3)(b). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(3)(b).

21 Government of Wales Act 2006 s 6(4). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(4).
22 Government of Wales Act 2006 s 6(5). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 4(5).
23 Government of Wales Act 2006 s 12(2)(a). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(a).
24 Government of Wales Act 2006 s 12(2)(b). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(b).
25 Government of Wales Act 2006 s 12(2)(c). As to the date at which this provision takes effect see note 14 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 10(2)(c). As to elections held to fill a vacancy in a constituency seat see para 221 ante.

370. Manner of voting at a European parliamentary election. A person entitled to vote as an elector at a European parliamentary election[1] may vote in person at the polling station allotted to him[2], unless he is entitled as an elector to an absent vote at the election[3]. If he is entitled as an elector to vote by post at the election, he may vote by post[4]. If he is entitled to vote by proxy at the election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the European parliamentary elections rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there[5]. If he is not entitled as an elector to an absent vote at the election[6], but he cannot reasonably be expected to go in person to the polling station allotted to him under the European parliamentary elections rules by reason of the particular circumstances of his employment, either as a constable or by the local returning officer[7], on the date of the poll for a purpose connected with the election[8], he may vote in person at any polling station in the local counting area[9].

At a European parliamentary election, a vote may be cast either for a registered party[10] or for an individual candidate named on the ballot paper[11]. If, on any occasion when elections to the European Parliament are held in all the member states, a person votes as an elector more than once in those elections, whether in the United Kingdom or elsewhere, he is guilty of an offence[12].

1 For the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, and the Representation of the People Act 1983, the European Parliamentary Elections Act 2002 and the European Parliament (Representation) Act 2003, a person entitled to vote as an elector at a European parliamentary election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references in those provisions to entitlement as an elector to an absent vote at a European parliamentary election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 2(7). For the meaning of the 'absent voters list' see para 378 post. As to European parliamentary elections see para 224 et seq ante. As to voting by proxy see para 379 et seq post.

However, nothing in Sch 2 para 2(1)–(5) (see the text and notes 2–9 infra) applies to: (1) a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see para 134 ante) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 2(6)(a)); or (2) a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see para 135 ante) applies (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 2(6)(b)), whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election) (Sch 2 para 2(6)).

2 Ie under the European parliamentary elections rules. For these purposes, 'European parliamentary elections rules' means the rules in ibid reg 9(1), Sch 1 (as amended) (see para 388 post): reg 2(1). For these purposes, 'allotted polling station' has the meaning set out in Sch 2 para 16(7) (see para 373 note 15 post): Sch 2 para 1(1).

3 Ibid Sch 2 para 2(1), (2).

4 Ibid Sch 2 para 2(1), (3).

5 Ibid Sch 2 para 2(1), (4).

6 Ibid Sch 2 para 2(1), (5)(a).

7 As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.

8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 2(1), (5)(b). As to the date of the poll at a European parliamentary election see para 229 ante.

9 Ibid Sch 2 para 2(1), (5). For the meaning of 'local counting area' see para 230 note 11 ante.

10 As to the submission by a registered party of lists of candidates to be members of the European Parliament ('MEPs') see para 235 ante.

11 European Parliamentary Elections Act 2002 s 2(3), (4). For the meaning of 'individual candidate' in the context of a European parliamentary election see para 237 note 32 ante.

12 See ibid s 9 (as amended); and para 703 note 12 post. For the meaning of 'United Kingdom' see para 13 note 1 ante.

371. Absent voting. A person may vote by post if he is either an elector entitled to vote by post or a person who is entitled to vote by post as proxy on behalf of an elector[1]. Alternatively, a person entitled to vote as proxy for an elector at an election may do so in person at the polling station allotted to the elector under the appropriate rules[2]. Where a person is entitled to vote by post as proxy for the elector at any election, the elector may not apply for a ballot paper for the purpose of voting in person at the election[3].

Provision is made for the procedure by which a person may apply to make an absent vote (for voting by post or by proxy either for a specified or indefinite period[4] or at a particular election only[5]), and for the procedure by which a person is appointed to vote as proxy for an elector[6].

The Secretary of State[7] may by regulations[8] make provision[9]: (1) enabling the registration officer[10] to require an existing absent voter[11] to provide the registration officer with a signature and date of birth[12]; and (2) as to the consequences of an existing absent voter refusing or failing in such circumstances as are prescribed to provide a signature and date of birth[13]. Accordingly, the registration officer must every year by 31 January send every person who remains an absent voter[14] (and whose signature held on the personal identifiers record[15] is more than five years old) a notice in writing[16] requiring him to provide a fresh signature[17] and informing him of the date (six weeks from the date of sending the notice) on which he would cease to be entitled to vote by post or by proxy in the event of a failure or refusal to provide a fresh signature[18]. The notice must be sent by the registration officer to the current or last known address of the absent voter[19]. The registration officer must, if the absent voter has not responded to the notice within three weeks from the date on which the notice was sent, as soon as practicable send a copy of the notice to him[20]. Upon the expiration of the period specified in the notice sent to the absent voter, the registration officer must determine whether the absent voter has failed or refused to provide a fresh signature[21]. Where the registration officer determines that the absent voter has refused or failed to provide a fresh signature within the specified period, he must remove that person's entry from the records kept of those entitled to an absent vote at elections (either for a particular period or for an indefinite period)[22] or of those entitled to vote by post as proxy at elections[23] and from the postal voters list[24], list of proxies[25] or proxy postal voters list[26], as the case may be[27]. Where a registration officer removes an absent voter's entry in such circumstances[28]: (a) the registration officer must inform the absent voter, where appropriate, of the location of the polling station allotted or likely to be allotted[29] to him[30]; (b) the provisions governing the refusal of an application for absent voting[31] and notice of appeal[32] apply as if the registration officer were refusing an application for absent voting[33]; and (c) in the case of an entry removed from the proxy postal voters list, the registration officer must also notify the elector who appointed the proxy whose entry has been removed[34].

The registration officer must maintain a record (the 'personal identifiers record'), apart from the other records and lists which he is required to keep in relation to applications made for absent voting[35], of the signatures and dates of birth provided by persons whose applications[36] were granted, until the expiry of 12 months from[37] either: (i) the date on which a person is removed from the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period[38] or from the record kept of those entitled to vote by post as proxy at elections[39]; or (ii) the date of the poll for the purposes of which the person's application for an absent vote was granted[40]. The personal identifiers record must contain, in respect of each absent voter on the postal voters list, list of proxies or proxy postal voters list, his name[41], his date of birth[42] and his signature, or a record of the waiver by the registration officer of the requirement for a signature[43]. The registration officer may disclose information held in the personal identifiers records either: (A) to any candidate or agent attending proceedings[44] on receipt of postal ballot papers[45]; or (B) to any person attending proceedings on receipt of postal ballot papers who is entitled to do so[45], but only to the extent required to permit them to observe the proceedings[47].

1 See para 383 et seq post. As to the mechanism by which postal ballots are issued and counted see para 411 et seq post.
2 See para 382 post.
3 See para 382 post.
4 See para 372 et seq post.
5 See para 376 et seq post.
6 See para 379 et seq post.
7 As to the Secretary of State see para 2 ante.
8 The regulations may make different provision for different purposes and must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament: Electoral Administration Act 2006 s 14(7).
9 Ibid s 14(5).
10 For the meaning of 'registration officer' see para 154 ante.
11 For these purposes, an existing absent voter is a person whose application under the Representation of the People Act 2000 Sch 4 para 3(1) (as amended) or Sch 4 para 3(2) (as amended) (absent vote at elections for definite or indefinite period: see para 372 post) or under Sch 4 para 4(1) (as amended) or Sch 4 para 4(2) (as amended) (absent vote at particular election: see para 376 post) or under Sch 4 para 7(4) (voting as proxy for an indefinite period or for a particular period or at a particular election: see para 383 post) has been granted before 1 January 2007 (i e the date at which the Electoral Administration Act 2006 s 14 came into force): s 14(6). As to the transitional provisions made for the capture of the personal identifiers of those who were existing absent voters at 1 January 2007 see the Absent Voting (Transitional Provisions) (England and Wales) Regulations 2006, SI 2006/2973, regs 2–5 (which reflect the force of the provisions set out in the text and notes 14–34 infra).
12 Electoral Administration Act 2006 s 14(5)(a).
13 Ibid s 14(5)(b).
14 For the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended) (see para 372 et seq post), 'absent voter' means an elector who is entitled to vote by proxy or an elector or proxy who is entitled to vote by post: reg 50 (definition added by SI 2006/2910).
15 As to the personal identifiers record see the text and notes 35–47 infra.
16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(1) (reg 60A added by SI 2006/2910). Where a notice is sent by post, the registration officer may use a universal postal service provider or a commercial delivery firm, and postage must be pre-paid: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(4) (as so added). A notice sent to an absent voter in accordance with reg 60A(1) (as added) must be accompanied by a pre-addressed reply envelope and, in the case of any notice sent to an address in the United Kingdom, return postage must be pre-paid: reg 60A(5) (as so added). For the meaning of 'United Kingdom' see para 13 note 1 ante.
17 Ibid reg 60A(1)(a) (as added: see note 16 supra).
18 Ibid reg 60A(1)(b) (as added: see note 16 supra).
19 Ibid reg 60A(2) (as added: see note 16 supra).
20 Ibid reg 60A(3) (as added: see note 16 supra). Where a copy of a notice is sent by post, the registration officer may use a universal postal service provider or a commercial delivery firm, and postage must be

pre-paid: reg 60A(4) (as so added). A copy of a notice sent to an absent voter in accordance with reg 60A(3) (as added) must be accompanied by a pre-addressed reply envelope and, in the case of any copy of a notice sent to an address in the United Kingdom, return postage must be pre-paid: reg 60A(5) (as so added).

21 Ibid reg 60A(6) (as added: see note 16 supra).

22 Ie the record kept pursuant to the Representation of the People Act 2000 s 12, Sch 4 para 3(4) (see para 375 post).

23 Ie the record kept pursuant to ibid Sch 4 para 7(6) (see para 384 post).

24 Ie the list kept under ibid Sch 4 para 5(2) (as amended) (see para 378 post).

25 Ie the list kept under ibid Sch 4 para 5(3) (see para 378 post).

26 Ie the list kept under ibid Sch 4 para 7(8) (as amended) (see para 384 post).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(7) (as added: see note 16 supra).

28 Ibid reg 60A(8) (as added: see note 16 supra). The registration officer must include in the notice to be sent to an absent voter regarding removal from the records kept pursuant to the Representation of the People Act 2000 Sch 4 para 3(4) (see para 375 post) or Sch 4 para 7(6) (see para 384 post) and from the postal voters list, list of proxies or proxy postal voters list (as the case may be) kept under Sch 4 para 5(2) (as amended) (see para 378 post), Sch 4 para 5(3) (see para 378 post) or Sch 4 para 7(8) (as amended) (see para 384 post), information explaining the effect of such removal and reminding the absent voter that he may make a fresh application under Sch 4 (as amended) to vote by post or by proxy (see para 372 et seq post), as the case may be: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(9) (as so added).

29 Ie under the appropriate rules, as defined in the Representation of the People Act 2000 Sch 4 para 1 (see para 368 note 2 ante).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60A(8)(a) (as added: see note 16 supra).

31 Where the registration officer refuses an application under the Representation of the People Act 2000 Sch 4 (as amended), he must notify the applicant of his decision and of the reason for it: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4).

32 Ie ibid reg 58 (see paras 190–191 ante).

33 Ibid reg 60A(8)(b) (as added: see note 16 supra).

34 Ibid reg 60A(8)(c) (as added: see note 16 supra).

35 Ie under the Representation of the People Act 2000 Sch 4 (as amended) (see para 372 et seq post).

36 Ie under ibid Sch 4 para 3(1), (2) (as amended) (absent vote at elections for definite or indefinite period: see para 372 post), Sch 4 para 4(1), (2) (as amended) (absent vote at particular election: see para 376 post) or Sch 4 para 7(4)(a), (b) (voting as proxy for an indefinite period or for a particular period or at a particular election: see para 383 post).

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61B(1) (reg 61B added by SI 2006/2910).

38 See note 22 supra.

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61B(1)(a) (as added: see note 37 supra). As to the record mentioned in the text see note 23 supra.

40 Ibid reg 61B(1)(b) (as added: see note 37 supra). The text refers to the date of the poll for the purposes of which the person's application for an absent vote was granted under the Representation of the People Act 2000 Sch 4 para 4(1), (2) (as amended) (absent vote at particular election: see para 376 post) or Sch 4 para 7(4)(b) (voting as proxy at a particular election: see para 383 post).

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61B(2)(a) (as added: see note 37 supra).

42 Ibid reg 61B(2)(b) (as added: see note 37 supra).

43 Ibid reg 61B(2)(c) (as added: see note 37 supra).

44 Ie in accordance with and for the purposes referred to in ibid reg 85 (as amended) (see para 428 post).

45 Ibid reg 61B(3)(a) (as added: see note 37 supra).

46 Ie by virtue of any of the Political Parties, Elections and Referendums Act 2000 ss 6A–6D (as added) (see para 48 ante).

47 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61B(3)(b) (as added: see note 37 supra).

B. ABSENT VOTING

(A) Applications relating to a Particular Period or an Indefinite Period

372. Application for absent vote at elections for a particular period or for an indefinite period. Where a person applies to the registration officer[1] to vote by post at parliamentary[2] or local government elections[3] (or at both) or at Welsh Assembly elections[4] or at European parliamentary elections[5] (whether for an indefinite period or for a particular period specified in his application), the registration officer must grant the application[6] if he is satisfied that the applicant is or will be registered in the register of electors for the election[7] and if the application meets the statutory requirements[8].

Where a person applies to the registration officer to vote by proxy[9] at such elections (whether for an indefinite period or for a particular period specified in his application), the registration officer must grant the application[10] if he is satisfied that the applicant is eligible to vote by proxy at elections to which the application relates[11], if he is satisfied that the applicant is or will be registered in the relevant register of electors[12], and if the application meets the statutory requirements[13]. For these purposes, a person is eligible to vote by proxy at such elections:

(1) if he is or will be registered as a service voter[14];
(2) if he cannot reasonably be expected to go in person to the polling station allotted or likely to be allotted to him [15] or to vote unaided there[16] (in the case of a parliamentary election) by reason of blindness or other disability or (otherwise) by reason of blindness or physical incapacity[17];
(3) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse or civil partner, or by reason of his or his spouse's or his civil partner's attendance on a course provided by an educational institution[18];
(4) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea[19]; or
(5) (in relation to parliamentary or local government elections) if he has an anonymous entry in the register of electors[20] for the election[21].

A person is also eligible to vote by proxy at parliamentary elections or at European parliamentary elections if he is or will be registered in pursuance of an overseas elector's declaration (or further, in the case of a European parliamentary election, in pursuance of a European parliamentary overseas elector's declaration)[22].

Such an application[23] must state: (a) the full name of the applicant[24]; (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register[25]; (c) in the case of a person applying to vote by post, the address to which the ballot paper should be sent[26]; (d) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote[27]; and (e) in relation to parliamentary or local government elections only: (i) in the case of a person who is unable to provide a signature, the reasons for his request for waiver of any requirement[28] to provide a signature and the name and address of any person who has assisted him to complete his application[29]; and (ii) where the applicant has, or has applied for, an anonymous entry, that fact[30].

The application must be made in writing and dated[31]. In relation to a parliamentary, local government or European parliamentary election, such an application which is made for an indefinite period or the period specified in the application must state that it is so made[32] and must specify the election (or elections) in respect of which it is made[33]. Where an application is made by an elector to vote by proxy, it must include an application for the appointment of a proxy which meets the statutory requirements[34].

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision[35]; and where he refuses an application, he must notify the applicant of his decision and of the reason for it[36]. An appeal lies to the county court from any decision of the registration officer disallowing a person's application to vote by proxy or by post as elector in any case where the application is not made for a particular election only[37].

1 The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election or elections: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 140; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 9(1). As to electoral registration officers and the areas for which they act see para 154 et seq ante.

2 For the meaning of 'parliamentary election' see para 9 ante.

3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

5 As to European parliamentary elections see para 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 3(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(1). Such an application must be disregarded for the purposes of any particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election (or on the sixth such day, in the case of a European parliamentary election): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 6(1) (substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(2). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(5) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4).

In computing a period of days for these purposes, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a bank holiday is to be disregarded and, in the case of a Welsh Assembly or European parliamentary election, Maundy Thursday is to be disregarded as well: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(6) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(6). 'Bank holiday' means, in relation to a parliamentary or European parliamentary general election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in any part of the United Kingdom: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(7). In relation to a parliamentary or European parliamentary by-election or a local government election or Welsh Assembly election or where, at a parliamentary general election, any proceedings are commenced afresh by reason of a candidate's death, 'bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the area in which the election is to take place: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(7). For the meaning of 'United Kingdom' see para 13 note 1 ante.

As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

7 Representation of the People Act 2000 Sch 4 para 3(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(1)(a). In the case of a parliamentary election, the register referred to in the text is the register of parliamentary electors and, in the case of a local government election, it is the register of local government electors (although an application under the Representation

of the People Act 2000 Sch 4 (as amended) may relate to both types of election, in which case the requirement is for the applicant to be registered in both). In the case of a Welsh Assembly election, the requirement is for the applicant to be registered in the register of local government electors (as to which see para 156 et seq ante). In the case of a European parliamentary election, the 'register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see para 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see para 156 ante); and (4) (for the purposes of European parliamentary elections held in the combined region) the Gibraltar register (see para 131 note 2 ante), in force within an electoral region at the time of a European parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to electoral regions established for the purposes of European parliamentary elections (including the combined region) see para 76 ante; as to registration as an elector see para 128 et seq ante; and as to the registers of electors maintained by registration officers see para 156 et seq ante.

8 Representation of the People Act 2000 Sch 4 para 3(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(1)(b).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 3(1)(b) (amended by the Electoral Administration Act 2006 s 14(1)(a), (8)). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)); and, accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended). Where a person has made an application under the Representation of the People Act 2000 Sch 4 para 3(1) (as amended) or Sch 4 para 3(2) (as amended) (see the text and notes 9–13 infra) prior to 31 December 2006 that has not been determined on or before that date, the registration officer must not grant the application unless the applicant has provided to the registration officer a specimen of his signature and his date of birth: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 3. As to the provisions made for the initial and continuing capture of the personal identifiers of those who are existing absent voters see para 371 ante.

The registration officer may dispense with the requirement under the Representation of the People Act 2000 Sch 4 para 3(1)(b) (as amended) or Sch 4 para 3(2)(c) (as amended) (see the text and note 13 infra) for the applicant to provide a signature if he is satisfied that the applicant is unable to provide a signature because of any disability the applicant has or is unable to provide a signature because the applicant is unable to read or write or is unable to sign in a consistent and distinctive way because of any such disability or inability: Sch 4 para 3(8) (added by the Electoral Administration Act 2006 s 14(1)(c), (8)). By virtue of the Representation of the People Act 2000 Sch 4 para 1(2), 'disability', in relation to doing a thing, includes a short term inability to do it: see the Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 76). Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 76 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

In the case of a Welsh Assembly election, the application referred to in the text must meet the requirements of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended).

In the case of a European parliamentary election, the application referred to in the text must meet the requirements of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended).

9 As to applications made to vote by proxy see para 379 et seq post.

10 Representation of the People Act 2000 Sch 4 para 3(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2). See note 8 supra. Such an application must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(2) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(2). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended

by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). At a Welsh Assembly election, the officer must also give the reason for his decision and date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the computation of time for these purposes see note 6 supra.

11 Representation of the People Act 2000 Sch 4 para 3(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2)(a).

12 Representation of the People Act 2000 Sch 4 para 3(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2)(b).

13 Representation of the People Act 2000 Sch 4 para 3(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2)(c).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 3(2)(c) (amended by the Electoral Administration Act 2006 s 14(1)(b), (8)). As to the requirements so prescribed and as to the provision made for enabling the registration officer to require an absent voter to provide the registration officer with a signature and date of birth (including transitional provisions) see note 8 supra.

As to the statutory requirements for Welsh Assembly elections and European parliamentary elections see note 8 supra.

14 Representation of the People Act 2000 Sch 4 para 3(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(a). As to registration as a service voter see para 140 et seq ante.

15 Representation of the People Act 2000 Sch 4 para 3(3)(b)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b)(i). As to the appropriate rules referred to in the text, in relation to a parliamentary or local government election, see para 368 note 2 ante; in relation to a Welsh Assembly election, see para 369 note 2 ante; and, in relation to a European parliamentary election, see para 370 note 2 ante.

16 Representation of the People Act 2000 Sch 4 para 3(3)(b)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b)(ii).

17 Representation of the People Act 2000 Sch 4 para 3(3)(b) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 para 137(1), (4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b).

18 Representation of the People Act 2000 Sch 4 para 3(3)(c) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 164(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(c) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(c) (amended by SI 2005/2114). It is suggested that the test would be satisfied where the duties of a person's employment frequently required him to be away from home at night. Where, however, a person was away on rare occasions only, the 'general nature' test would appear not to be satisfied, but the person would be eligible for an absent vote for a particular election if his employment duties required him to be away from his qualifying address on polling day (as to which see para 376 post). In order for a person's spouse or partner to qualify under this category it would be necessary to show that the general nature of the person's occupation, service or employment required him to be frequently away from home at night with the other spouse or partner in accompaniment.

19 Representation of the People Act 2000 Sch 4 para 3(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(d).

20 For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

21 Representation of the People Act 2000 Sch 4 para 3(3)(aa) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 20(1)–(3)).

22 Representation of the People Act 2000 Sch 4 para 3(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3). As to registration in pursuance of an overseas elector's declaration see para 129 ante; and as to registration in pursuance of a European parliamentary overseas elector's declaration see para 130 ante.

23 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the

People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and, in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1). As to additional requirements for applications to vote by proxy for a definite or indefinite period see paras 373–374 post.

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(a).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(b).

In relation to Welsh Assembly elections, it is specified in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2) (amended by SI 2006/884)) that, for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended), the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered includes: (1) in the case of a service voter, the address given in the service declaration in accordance with the Representation of the People Act 1983 s 16(d) (amended) (see para 142 ante) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2)(a)); (2) in the case of a person to whom the Representation of the People Act 1983 s 7 (as substituted and amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see para 134 ante) applies, the address of the mental hospital or the address shown on the declaration of local connection in accordance with s 7B(3)(d) (as added) (see para 137 ante) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2)(b)); (3) in the case of a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see para 135 ante) applies, the address of the place at which he is detained or the address shown on the declaration of local connection in accordance with s 7B(3)(d) (as added) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2)(c)); and (4) in the case of a homeless person, the address shown on the declaration of local connection in accordance with the Representation of the People Act 1983 s 7B(3)(d) (as added) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(2)(d)).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(d).

In the case of an application to vote by post at parliamentary or local government elections under the Representation of the People Act 2000 Sch 4 para 3(1) (see the text and notes 1–8 supra) or Sch 4 para 3(7) (see para 375 post) where the addresses stated in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (as amended) (see the text and note 25 supra) and reg 51(2)(d) are different, except where an applicant has, or has applied for, an anonymous entry, the application must set out why the applicant's circumstances will be or are likely to be such that he requires the ballot paper to be sent to the address stated in accordance with reg 51(2)(d): reg 51AA(1)–(3) (added by SI 2006/2910).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(e).

28 Ie under the Representation of the People Act 2000 Sch 4 para 3 (as amended): see the text and notes 1–22 supra.

29 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(f) (added by SI 2006/2910).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(g) (added by SI 2006/2910).

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

In relation to parliamentary or local government elections, where an application is required to contain a signature and date of birth (see note 8 supra), the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning into his record: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A) (reg 51(3A), (3B) added by SI 2006/2910). This requirement is met by configuring the information as

follows: (1) the signature must appear against a background of white unlined paper of at least five centimetres long and two centimetres high (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A)(a) (as so added)); and (2) the applicant's date of birth must be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y] (reg 51(3A)(b) (as so added)). Where the application contains a request that the registration officer waive the requirement for a signature (see note 8 supra), head (1) supra does not apply: reg 51(3B) (as so added). The registration officer may satisfy himself: (a) that an application under the Representation of the People Act 2000 Sch 4 (as amended) meets any requirements that it has been signed by the applicant and states his date of birth by referring to any signature and date of birth either previously provided by the applicant to the registration officer or to the returning officer or previously provided by the applicant to the authority referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 35(2)(a) (i e the council which appointed him: see para 157 ante), which the registration officer is authorised to inspect for the purposes of his registration duties (reg 51A(a) (reg 51A added by SI 2006/752; and substituted by SI 2006/2910)); and (b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51A(b) (reg 51A as so added and substituted)).

At a Welsh Assembly election, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1A (added by SI 2006/884). Any application or notice which is required by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) to be made to a registration officer or a returning officer must be made in writing and sent by post or delivered to his office or to the address specified by him for the purpose: art 143.

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(a).

33 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(b).

34 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 51(6), 52; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 paras 1(4), 5; the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 14(6), 15; and para 380 post.

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(1) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1). At a parliamentary or Welsh Assembly election where the registration officer is not the acting returning officer for any constituency (or at a European parliamentary election where the registration officer is not the local returning officer for any local counting area) or part of such area in the area for which he is the registration officer, he must send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(5). For the meaning of 'local counting area' see para 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.

In relation to a Welsh Assembly election, where a registration officer is required to notify any person, such notification must be in writing and may be sent by post: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 14. In the case of a person other than a service voter, the notification may be sent to the address provided by that person for the purpose of such notification or of any record or, if there is no such address, to the last known place of abode of that person: Sch 2 para 14(a). In the case of a service voter, the notification may be sent to any address provided by him for the purpose of such notification or of any record or to the address provided for the purpose by the appropriate government department (as defined by the Representation of the People Act 1983 s 59(3) (see para 146 note 2 ante)) or, as the case may be, the British Council: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 14(b).

36 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

37 See para 189 et seq ante.

373. Additional requirements for applications for a proxy vote for a definite or indefinite period by reason of physical incapacity. An application to vote by proxy for a particular or indefinite period by reason of blindness or other disability (or, in the case of a Welsh Assembly or European parliamentary election, physical incapacity)[1] must specify the blindness or other disability (or the physical incapacity) by reason of which it is made[2]. Such an application must be attested and signed[3] by:

(1) a registered medical practitioner[4];

(2) a nurse registered on the register maintained by the Nursing and Midwifery Council[5] by virtue of qualifications in nursing[6];

(3) a Christian Science practitioner[7];

(4) (except in the case of a Welsh Assembly or European parliamentary election) a registered dentist[8], a registered dispensing optician or registered optometrist[9], a registered pharmaceutical chemist[10], a registered osteopath[11] or a registered chiropractor[12];

(5) (except in the case of a Welsh Assembly or European parliamentary election) a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists[13];

(6) (except in the case of a Welsh Assembly or European parliamentary election) a person registered as a member of a profession to which the Health Professions Order 2001[14] for the time being extends[15];

(7) the person carrying on a care home registered under Part II of the Care Standards Act 2000[16] (or, in the case of a Welsh Assembly or European parliamentary election, the person registered as carrying on a residential care home[17], where the applicant states that he is resident in such a home)[18];

(8) the warden of premises forming one of a group of premises provided for persons of pensionable age or disabled persons for which there is a resident warden, where the applicant states that he resides in such premises[19];

(9) (in the case of a Welsh Assembly or European parliamentary election only) the matron or other person in charge of residential accommodation provided by a local authority[20], where the applicant states that he is resident in such accommodation[21];

(10) (except in the case of a Welsh Assembly or European parliamentary election) a manager within the meaning of the Mental Health Act 1983[22], or on behalf of such a manager[23];

(11) (except in the case of a Welsh Assembly or European parliamentary election) a person registered in the register for social workers[24].

A person who qualifies by virtue of any of heads (1) to (6) above may not attest an application for these purposes unless he is treating the applicant for the disability (or the physical incapacity) specified in the application or unless the applicant is receiving care from him in respect of that disability or incapacity (as the case may be)[25]. A person who qualifies by virtue of head (11) above may not attest an application for these purposes unless he is treating the applicant for the disability specified in the application or unless the applicant is receiving care from him in respect of that disability or unless he has arranged care or assistance for the person in respect of his disability[26]. The person attesting the application must state: (a) his name and address and the qualification by virtue of which he attests the application[27]; (b) where the person who attests the application is a person who qualifies by virtue of any of heads (1) to (6) above, that he is treating the applicant for the disability (or the physical incapacity) specified in the application or that the applicant is receiving care from him in respect of that disability or incapacity (as the case may be)[28] and, where the person who attests the application is a person who qualifies by virtue of head (11) above, that he is treating the applicant for

the disability specified in the application or that the applicant is receiving care from him in respect of that disability or that he has arranged care or assistance for the applicant in respect of that disability[29]; (c) that, to the best of his knowledge and belief, the applicant has the disability (or is suffering from the physical incapacity) specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station[30] or to vote unaided there by reason of that disability or incapacity (as the case may be)[31]; and (d) that, to the best of his knowledge and belief, the disability (or the physical incapacity) specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application[32].

However, the provisions as to attestation[33] do not apply where the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority[34] which is specified in the application[35] or where the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance[36] because of the disability (or the physical incapacity) specified in the application[37].

For the purpose of determining whether there has been a material change of circumstances, the registration officer may, at such times as he thinks fit, make inquiries of a person[38] who is shown as voting by proxy[39] in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period[40]. The registration officer may treat the failure by a person of whom inquiries have been made to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances[41].

1 Ie at a parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 3(3)(b) (as amended) or at a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b) or at a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 3(3)(b) (whichever is appropriate) (see para 372 ante). For the meaning of 'parliamentary election' see para 9 ante. For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also para 368 note 1 ante. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to European parliamentary elections see para 224 et seq ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(1) (amended by SI 2001/1700; SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(1). The application must also satisfy the general requirements of absent voting applications (see para 372 ante). As to the offence in respect of false statements made in any declaration or form used in connection with absent voting see para 738 post.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2) (reg 53(2)–(4) substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2). As to the offence of attesting such an application when not authorised to do so see para 738 post.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(a) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(a).

5 Ie the register maintained under the Nursing and Midwifery Order 2001, SI 2002/253, art 5 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 717).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(b) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(b) (substituted by SI 2004/1771); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(b) (substituted by SI 2004/1771).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(h) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(c).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(c) (as substituted: see note 3 supra). The text refers to a registered dentist as defined by the Dentists Act 1984 s 53(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 417).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(d) (as substituted: see note 3 supra). The text refers to a registered dispensing optician or a registered optometrist within the meaning of the Opticians Act 1989 (as amended) (see MEDICAL PROFESSIONS).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(e) (as substituted: see note 3 supra). The text refers to a registered pharmaceutical chemist as defined by the Pharmacy Act 1954 s 24(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 417).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(f) (as substituted: see note 3 supra). The text refers to a registered osteopath as defined by the Osteopaths Act 1993 s 41 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 503).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(g) (as substituted: see note 3 supra). The text refers to a registered chiropractor as defined by the Chiropractors Act 1994 s 43 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 595).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(i) (as substituted: see note 3 supra).

14 Ie the Health Professions Order 2001, SI 2001/254 (as amended).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(j) (as substituted: see note 3 supra). As to persons registered as members of a profession to which the Health Professions Order 2001, SI 2001/254 (as amended) for the time being extends see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 308 et seq.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(k) (as substituted: see note 3 supra). The text refers to a care home registered under the Care Standards Act 2000 Pt II (ss 11–42). As to the registration of residential care homes see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1042 et seq.

17 In the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(d) specifies a residential care home within the meaning of the Registered Homes Act 1984 s 1 (repealed) which is required to be registered under Pt I (ss 1–20) (repealed); but see also the National Assembly for Wales (Representation of the People) Order 2003, SI 2007/236, Sch 1 para 4(2)(k), which is framed in similar terms to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(k) (as substituted) (see the text and note 16 supra). In the case of a European parliamentary election, a care home registered under the Care Standards Act 2000 s 3 (see SOCIAL SERVICES AND COMMUNITY CARE) is specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(d).

18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(d).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(l) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(f); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(f).

20 Ie under the National Assistance Act 1948 s 21(1) (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) paras 1029–1030).

21 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)(e).

22 Ie within the meaning of the Mental Health Act 1983 s 145(1) (as amended) (see MENTAL HEALTH vol 30(2) (Reissue) para 439).

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(m) (as substituted: see note 3 supra).

24 Ibid reg 53(2)(n) (as substituted: see note 3 supra). The text refers to the register for social workers maintained in accordance with the Care Standards Act 2000 s 56 (see SOCIAL SERVICES AND COMMUNITY CARE).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(3)(a) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(3).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(3)(b) (as substituted: see note 3 supra).

27 Ibid reg 53(4)(a) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(4)(a).

A person who qualifies by virtue of head (10) in the text must, instead of the matters specified in head (a) in the text, state in the attestation his name, his position in the hospital at which the applicant is

liable to be detained or at which he is receiving treatment, that he is a person authorised to make the attestation and, in the case of an applicant who is liable to be detained in hospital, the statutory provision under which the applicant is liable to be so detained: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5A) (added by SI 2006/2910).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(b) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(4)(a).

29 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(c) (as substituted: see note 3 supra).

30 For these purposes, 'his allotted polling station', in relation to an elector, means the polling station allotted or likely to be allotted to him under the appropriate rules: ibid reg 53(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 1(2), 16(7). As to the appropriate rules, in relation to a parliamentary or local government election, see para 368 note 2 ante; in relation to a Welsh Assembly election, see para 369 note 2 ante; and, in relation to a European parliamentary election, see para 370 note 2 ante.

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(d) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(4)(b).

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(e) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(4)(c).

33 Ie the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)–(4) (as substituted), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)–(4) (as amended) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(2)–(4) (as amended) (whichever is appropriate) (see the text and notes 3–32 supra).

34 Ie the local authority which has made arrangements for compiling and maintaining classified registers of persons who are blind, etc under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1021).

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(5)(a). The fact that an applicant is registered with a local authority under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1021) is deemed sufficient evidence that he is eligible to vote by proxy on the grounds set out for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(3)(b) (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b) (whichever is appropriate) (see para 372 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(6).

36 Ie payable under the Social Security Contributions and Benefits Act 1992 ss 71, 73 (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 106).

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(b) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 16(5)(c).

38 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(1).

39 Ie where applications have been granted on the grounds set out for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(3)(b) (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(b) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(b) (whichever is appropriate) (see para 372 ante). Except in the case of European parliamentary elections, this includes applications granted under predecessor provisions: see the

Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1)(b); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1)(b).

40 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(1). The text refers to the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(4) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4) (whichever is appropriate) (see para 375 post).

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(3).

374. Additional requirements for applications for a proxy vote for a definite or indefinite period by reason of occupation, service or employment or attendance on a course. An application to vote by proxy for a particular or indefinite period by reason of occupation, service or employment or attendance on a course[1] must state[2]: (1) whether the occupation, service or employment in respect of which it is made is that of the applicant or his spouse or civil partner or, as the case may be, whether it is the applicant or his spouse or civil partner who is attending the course provided by an educational institution in respect of which the application is made[3]; (2) the nature of the occupation, service or employment or course provided by an educational institution giving rise to the application[4]; (3) where the person in respect of whose occupation, service or employment it is made (the 'employed person') is self employed, that fact and, in any other case, the name of that person's employer[5]; (4) the reason, relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to his allotted polling station[6].

Such an application must be attested and signed: (a) where the person is self-employed, by a person who is aged 18 years or over[7], knows the self-employed person[8] and is not related to him[9]; or (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer[10]; or (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the head or principal[11]. The person attesting an application so made must, where the applicant is the employed person or the person attending the course, certify that the statements required by heads (1) to (4) above to be included in the application are true[12] or, where the applicant is the spouse or civil partner of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of heads (1) to (3) above are true[13]. The person so attesting an application must also state: (i) his name and address, that he is aged 18 years or over, that he knows the employed person, self-employed person or person attending a course provided by an educational institution but is not related to him[14]; and (ii) if he is attesting as or on behalf of the employer of the employed person, that he is the employer or the position he holds in the employment of that employer[15]; or (iii) if he is attesting an application made on the grounds of attendance at a course provided by an educational institution, the post he holds at that institution[16].

For the purpose of determining whether there has been a material change of circumstances, the registration officer may, at such times as he thinks fit, make inquiries of a person[17] who is shown as voting by proxy, in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period[18], by

reason of occupation, service or employment or attendance on a course[19]; and where the grant of such an application was based on such grounds[20], the registration officer must make the inquiries referred to not later than three years after the granting of the application or the last such inquiries, as the case may be[21]. The registration officer may treat the failure by a person of whom inquiries have been made to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances[22].

1 Ie at a parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 3(3)(c) (as amended) or at a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(c) (as amended) or at a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 3(3)(c) (as amended) (whichever is appropriate) (see para 372 ante). For the meaning of 'parliamentary election' see para 9 ante. For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also para 368 note 1 ante. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to European parliamentary elections see para 224 et seq ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1) (amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 3(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1). The application must also satisfy the general requirements of absent voting applications (see para 372 ante). As to the offence in respect of false statements made in any declaration or form used in connection with absent voting see para 738 post.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1)(a) (amended by SI 2005/2114); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(1)(a) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1)(a) (amended by SI 2005/2114).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1)(b).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1)(c).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(1)(d). For the meaning of 'his allotted polling station', in relation to an elector, see para 373 note 15 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(a)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(a)(i).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(a)(ii).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(a)(iii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(a)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(a)(iii). For these purposes, one person is related to another if he is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the other: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(5) (amended by SI 2005/2114); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(3) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(5) (amended by SI 2005/2114).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(b).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(2)(c).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(3)(a).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(3)(b) (amended by SI 2005/2114); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(b) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(3)(b) (amended by SI 2005/2114). The reason why the applicant cannot reasonably be expected to go in person to the allotted polling station is not included in the statements that the person attesting the application has to certify as true in the case of the spouse or civil partner of an employed person or person attending a course.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(4)(a).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(4)(b).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 54(4)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 3(4)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 17(4)(c).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(1).

18 Ie the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(4) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4) (whichever is appropriate) (see para 375 post).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(1). The text refers to applications which have been granted on the grounds set out for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(3)(c) (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(2)(c) (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(3)(c) (as amended) (whichever is appropriate) (see para 372 ante). Except in the case of European parliamentary elections, this includes applications granted under predecessor provisions: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(1)(b); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(1)(b), (5).

20 Ie or grounds that are similar: see note 19 supra.

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(2) (amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(2), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(2).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 60(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 10(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 23(3).

375. Record of those entitled to an absent vote at elections for a definite period or for an indefinite period. The registration officer[1] must keep a record of those whose applications for an absent vote at elections[2] for a definite period or for an indefinite period[3] have been granted showing[4]: (1) whether their applications were to vote by post or proxy for an indefinite or a particular period (specifying that period)[5]; (2) in the case of applications made in respect of parliamentary or local government elections, whether their applications were in respect of parliamentary elections, local government elections or both[6]; (3) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent[7]; and (4) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies[8]. The registration officer at a Welsh Assembly or European parliamentary election must make available for inspection at his

office a copy of the records so kept[9] and, in relation to a Welsh Assembly election, any person may make a copy (whether handwritten or by other means) of the whole or any part of them[10].

A person who remains on the record of those entitled to an absent vote at parliamentary or local government elections for a particular period or for an indefinite period[11] may, at any time, provide the registration officer with a fresh signature[12]; and anything required or authorised to be done for the purposes of any enactment in relation to a signature required to be provided in pursuance of absent voting in Great Britain[13] must be done in relation to a signature so provided instead of in relation to a signature provided on any earlier occasion[14]. Regulations may make provision as to circumstances in which a registration officer may require a person who remains on the record of those who are entitled to an absent vote at parliamentary or local government elections for a particular period or for an indefinite period[15] to provide a fresh signature[16] and as to the consequences of a person refusing or failing to comply with a requirement to provide a fresh signature[17].

The registration officer must remove a person from the record: (a) if he applies to the registration officer to be removed[18]; (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered in pursuance of[19] a service declaration[20] or a declaration of local connection[21] or (except in the case of a Welsh Assembly election) an overseas elector's declaration[22]; (c) in the case of any person shown in the record as voting by proxy, if the registration officer gives notice that he has reason to believe there has been a material change of circumstances[23]; (d) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired[24]; or (e) in the case of a person who is eligible to vote by proxy at parliamentary or local government elections by virtue of having an anonymous entry[25], if he ceases to have an anonymous entry[26]. Where a person is removed from the record under any of heads (a) to (e) above, the registration officer must, where practicable, notify him of this and the reason for it[27].

A person shown in the record as voting by post may subsequently alter his choice by applying to the registration officer to vote by proxy instead (whether for an indefinite period or for a particular period specified in his application); and, if the registration officer would be required to grant that application to vote by proxy[28], the registration officer must amend the record accordingly[29]. Equally, a person shown in the record as voting by proxy may subsequently alter his choice by applying to the registration officer to vote by post instead (whether for an indefinite period or for a particular period specified in his application); and, if the application meets the statutory requirements, the registration officer must amend the record accordingly[30].

The registration officer must also keep a record in relation to those whose applications for an absent vote at parliamentary or local government elections for a particular period or for an indefinite period have been granted showing their dates of birth[31] and, except in cases where the registration officer[32] has dispensed with the requirement to provide a signature, their signatures[33]. This record must be retained by the registration officer for the prescribed period[34]. The registration officer must either provide a copy of the information contained in records so kept by him[35] to the returning officer for an election in relation to electors at the election[36] or give the returning officer access to such information[37]. Information contained in such records may be disclosed by a registration officer (subject to any prescribed conditions) to any other registration officer if he thinks that to do so will assist the other registration officer in the performance of his duties[38], or to any person exercising functions in relation to the

preparation or conduct of legal proceedings under the Representation of the People Acts[39] or to such other persons for such other purposes relating to elections as may be prescribed[40].

1 As to electoral registration officers and the areas for which they act see para 154 et seq ante.

2 Ie at parliamentary, local government, Welsh Assembly or European parliamentary elections. For the meaning of 'parliamentary election' see para 9 ante. For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to European parliamentary elections see para 224 et seq ante.

3 Ie applications for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 3 (as amended) (whichever is appropriate) (see para 372 ante).

4 Representation of the People Act 2000 Sch 4 para 3(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4).

5 Representation of the People Act 2000 Sch 4 para 3(4)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4)(a).

6 Representation of the People Act 2000 Sch 4 para 3(4)(a)(i).

7 Ibid Sch 4 para 3(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4)(b).

8 Representation of the People Act 2000 Sch 4 para 3(4)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4)(c). As to the appointment of proxies to vote see para 379 et seq post.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 11(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(2). In the case of records relating to a Welsh Assembly election, the records may be in such form as the registration officer thinks fit: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(1).

10 Ibid SI 2003/284, art 144(2).

11 Ie the record kept under the Representation of the People Act 2000 Sch 4 para 3(4) (see the text and notes 1–8 supra).

12 Ibid Sch 4 para 7A(1) (Sch 4 paras 7A–7D added by the Electoral Administration Act 2006 s 14(4), (8)).

13 Ie in pursuance of the Representation of the People Act 2000 Sch 4 (as amended).

14 Ibid Sch 4 para 7A(2) (as added: see note 12 supra).

15 Ie the record kept under ibid Sch 4 para 3(4) (see the text and notes 1–8 supra).

16 Ibid Sch 4 para 7B(a) (as added: see note 12 supra).

17 Ibid Sch 4 para 7B(b) (as added: see note 12 supra).

18 Ibid Sch 4 para 3(5)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(a). Such an application by an elector to be removed from the record must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(3)(a), (i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(5)(a). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). As to the computation of time for these purposes see para 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the

poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

19 Representation of the People Act 2000 Sch 4 para 3(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(b).

20 Representation of the People Act 2000 Sch 4 para 3(5)(b)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(b)(i). As to registration in pursuance of a service declaration see para 140 et seq ante.

21 Representation of the People Act 2000 Sch 4 para 3(5)(b)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(b)(ii). As to registration in pursuance of a declaration of local connection see para 136 et seq ante.

22 Representation of the People Act 2000 Sch 4 para 3(5)(b)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(b)(iii). As to registration in pursuance of an overseas elector's declaration see para 129 et seq ante.

23 Representation of the People Act 2000 Sch 4 para 3(5)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(c). As to the registration officer's powers and duties to make inquiries of persons included in this record see paras 373–374 ante.

24 Representation of the People Act 2000 Sch 4 para 3(5)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(5)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(5)(d).

25 Ie an anonymous entry in relation to a register of electors: see para 174 ante; and see also para 372 ante.

26 Representation of the People Act 2000 Sch 4 para 3(5)(aa) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 20(1), (4)).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4B) (added by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4B) (added by SI 2006/884). As to notification see para 372 note 35 ante.

28 Ie if it were one that had been made for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(2) (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(1) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(2) (whichever is appropriate) (see para 372 ante).

29 Representation of the People Act 2000 Sch 4 para 3(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(6). Such an application must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(1). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). As to the computation of time for these purposes see para 372 note 6 ante.

30 Representation of the People Act 2000 Sch 4 para 3(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(7). The text refers to the requirements set out, in the case of a parliamentary or local government election, in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended) or, in the case of a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended) (whichever is appropriate). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), the requirements are as prescribed; and 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)). As to the requirements to be met by applications to vote by post see further para 372 ante. An application of the kind referred to in the text must be disregarded for the purposes of a particular election if it is

received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(1). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4).

31 Representation of the People Act 1983 Sch 4 para 3(9)(a) (Sch 4 para 3(9)–(10) added by the Electoral Administration Act 2006 s 14(1)(c), (8)).

32 Ie in pursuance of the Representation of the People Act 2000 Sch 4 para 3(8) (as added) (see para 372 ante).

33 Ibid Sch 4 para 3(9)(b) (as added: see note 31 supra).

34 Ibid Sch 4 para 3(10) (as added: see note 31 supra). As to the retention of the records referred to in the text see para 503 et seq post.

35 Ie in pursuance of ibid Sch 4 para 3(9) (as added) (see the text and notes 31–34 supra).

36 Ibid Sch 4 para 7C(a) (as added: see note 12 supra).

37 Ibid Sch 4 para 7C(b) (as added: see note 12 supra).

38 Ibid Sch 4 para 7D(a) (as added: see note 12 supra). As to the prescribed requirements see note 30 supra.

39 Ibid Sch 4 para 7D(b) (as added: see note 12 supra). For the meaning of 'the Representation of the People Acts' see para 3 note 1 ante.

40 Representation of the People Act 1983 Sch 4 para 7D(c) (as added: see note 12 supra). As to the prescribed requirements see note 30 supra.

(B) Applications relating to a Particular Election

376. Applications for an absent vote at a particular election. Where a person applies to the registration officer[1] to vote by post at a particular parliamentary[2], local government[3], Welsh Assembly[4] or European parliamentary election[5], the registration officer must grant the application[6] if he is satisfied that the applicant is or will be registered in the register of electors for the election[7] and if the application meets the statutory requirements[8]. Where a person applies to the registration officer to vote by proxy[9] at a particular such election, the registration officer must grant the application[10] if: (1) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the appropriate rules[11]; (2) he is satisfied that the applicant is or will be registered in the register of electors for the election[12]; and (3) the application meets the statutory requirements[13]. Where a person who has an anonymous entry in the register of electors for the election[14] applies to the registration officer to vote by proxy at a particular parliamentary or local government election, the registration officer must grant the application if it meets the prescribed requirements[15].

A person who is included in the record kept of those entitled to an absent vote in respect of parliamentary, local government or Welsh Assembly elections, either for a particular period or for an indefinite period[16], may, in respect of a particular such election, apply to the registration officer[17] for his ballot paper to be sent to a different address from that shown in the record[18] or to vote by proxy[19], if he is shown in the record so kept as voting by post at elections of the kind in question[20]; and the registration officer must grant such an application if[21], in the case of any application, it meets the statutory requirements[22] and, in the case of an application to vote by proxy, the registration officer is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the appropriate rules[23].

Such an application[24] must state: (a) the full name of the applicant[25]; (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register[26]; (c) in the case of a person applying to vote by post, the address to which the ballot paper should be sent[27]; (d) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote[28]; and (e) in relation to parliamentary or local government elections only: (i) in the case of a person who is unable to provide a signature, the reasons for his request for waiver of any requirement[29] to provide a signature and the name and address of any person who has assisted him to complete his application[30]; and (ii) where the applicant has, or has applied for, an anonymous entry, that fact[31]. Additionally, except in the case of a European parliamentary election, an application for a ballot paper to be sent to a different address from that shown in the record must set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address[32]. Such an application which is made for a particular election must identify the election in question[33] and (except for a Welsh Assembly election) must state that it is made for a particular election[34]. An application for a parliamentary or a local government election may be combined where the polls fall on the same day[35], and such an application (whether combined or not) may be used in combination with that for an absent vote at a particular European parliamentary election[36]. The application must be made in writing and dated[37]. Where an application is made by an elector to vote by proxy, it must include an application for the appointment of a proxy which meets the statutory requirements[38].

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision[39]; and where he refuses an application, he must notify the applicant of his decision[40]. An appeal does not lie from any decision of the registration officer disallowing a person's application to vote by proxy or by post as elector made for a particular election only[41].

1 The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election or elections: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 140; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 9(1). As to electoral registration officers and the areas for which they act see para 154 et seq ante.

2 For the meaning of 'parliamentary election' see para 9 ante.

3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. For these purposes, 'particular election', where a person (whether as elector or as proxy) is entitled to give two votes at an ordinary election, refers to both elections at which he is entitled to so vote; and references to an absent vote at a particular Assembly election must be construed accordingly: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(5). As to ordinary general elections to the National Assembly for Wales see para 12 et seq ante.

5 As to European parliamentary elections see para 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 4(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(1). Such an application must be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the election (or on the sixth such day, in the case of a European parliamentary election) for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(4) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 6(1) (substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(3). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284,

Sch 2 para 7(5) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). As to the computation of time for these purposes see para 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

7 Representation of the People Act 2000 Sch 4 para 4(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(1)(a).

In the case of a parliamentary election, the register referred to is the register of parliamentary electors and, in the case of a local government election, it is the register of local government electors (although an application under the Representation of the People Act 2000 Sch 4 (as amended) may relate to both types of election, in which case the requirement is to be registered in both). In the case of a Welsh Assembly election, the requirement is for the applicant to be registered in the register of local government electors (see para 160 ante). In the case of a European parliamentary election, the 'register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see para 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see para 156 ante); and (4) (for the purposes of European parliamentary elections held in the combined region) the Gibraltar register (see para 131 note 2 ante), in force within an electoral region at the time of a European parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to electoral regions established for the purposes of European parliamentary elections (including the combined region) see para 76 ante; as to registration as an elector see para 128 et seq ante; and as to the registers of electors maintained by registration officers see para 156 et seq ante.

8 Representation of the People Act 2000 Sch 4 para 4(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(1)(b).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 4(1)(b) (amended by the Electoral Administration Act 2006 s 14(2)(a), (8)). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)); and, accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended). Where a person has made an application under the Representation of the People Act 2000 Sch 4 para 4(1) (as amended) or Sch 4 para 4(2) (as amended) (see the text and notes 9–13 infra) prior to 31 December 2006 that has not been determined on or before that date, the registration officer must not grant the application unless the applicant has provided to the registration officer a specimen of his signature and his date of birth: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 3. As to the provisions made for the initial and continuing capture of the personal identifiers of those who are existing absent voters see para 371 ante.

The registration officer may dispense with the requirement under the Representation of the People Act 2000 Sch 4 para 4(1)(b) (as amended) or Sch 4 para 4(2)(c) (as amended) (see the text and note 13 infra) for the applicant to provide a signature if he is satisfied that the applicant is unable to provide a signature because of any disability the applicant has or is unable to provide a signature because the applicant is unable to read or write or is unable to sign in a consistent and distinctive way because of any such disability or inability: Sch 4 para 4(5) (added by the Electoral Administration Act 2006 s 14(2)(c), (8)). By virtue of the Representation of the People Act 2000 Sch 4 para 1(2), 'disability', in relation to doing a thing, includes a short term inability to do it: see the Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 76).

In the case of a Welsh Assembly election, the application referred to in the text must meet the requirements of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended).

In the case of a European parliamentary election, the application referred to in the text must meet the requirements of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended).

9 As to voting by proxy see para 379 et seq post.

10 Representation of the People Act 2000 Sch 4 para 4(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1); European Parliamentary Elections Regulations 2004,

SI 2004/293, Sch 2 para 4(2). Such an application must be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(3). Where an application is made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(2) (as amended) on the grounds of the applicant's disability and the applicant became disabled after 5 pm on the sixth day before the date of the poll at the election for which it is made or by a person to whom Sch 4 para 2(5A) (as added) applies (i e a person in a mental hospital who is not a detained offender or on remand but who is liable to be detained in the mental hospital in question: see para 368 ante), the application, or an application under Sch 4 para 6(8) (application for the appointment of a proxy to vote at a particular election: see para 380 post) made by virtue of that application, must be refused if it is received after 5 pm on the day of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3A) (added by SI 2006/752; and substituted by SI 2006/2910). In relation to a Welsh Assembly election, where such an application is made on the grounds of the applicant's physical incapacity, and the applicant became physically incapacitated after 5 pm on the sixth day before the date of the poll at the election for which it is made, the application must be refused if it is received after 5 pm on the day of the poll at the election for which it is made: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1B) (added by SI 2006/884). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). This restriction applies also to applications made under the Representation of the People Act 2000 Sch 4 para 6(8), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7) made by virtue of an application under the Representation of the People Act 2000 Sch 4 para 4(2) (as amended), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1) or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2): see para 380 post.

11 Representation of the People Act 2000 Sch 4 para 4(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2)(a). As to the appropriate rules referred to in the text, in relation to a parliamentary or local government election, see para 368 note 2 ante; in relation to a Welsh Assembly election, see para 369 note 2 ante; and, in relation to a European parliamentary election, see para 370 note 2 ante.

12 Representation of the People Act 2000 Sch 4 para 4(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2)(b).

13 Representation of the People Act 2000 Sch 4 para 4(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2)(c).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 4(2)(c) (amended by the Electoral Administration Act 2006 s 14(2)(b), (8)). As to the requirements so prescribed and as to the provision made for enabling the registration officer to require an absent voter to provide the registration officer with a signature and date of birth (including transitional provisions) see note 8 supra.

As to the statutory requirements for Welsh Assembly elections and European parliamentary elections see note 8 supra.

As to additional requirements to be included in applications to vote by proxy at a particular election see para 377 post.

14 For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

15 Representation of the People Act 2000 Sch 4 para 4(2A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 21). As to the prescribed requirements see note 8 supra.

16 Ie the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see para 375 ante).

17 Representation of the People Act 2000 Sch 4 para 4(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3).

18 Representation of the People Act 2000 Sch 4 para 4(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2)(a) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3)(a).

19 Representation of the People Act 2000 Sch 4 para 4(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3)(b).

20 Representation of the People Act 2000 Sch 4 para 4(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3). Such an application must be refused for the purposes of any particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(1). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4).

21 Representation of the People Act 2000 Sch 4 para 4(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(4). Where the registration officer grants such an application made by a person shown as voting by post, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4A) (added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1).

22 Representation of the People Act 2000 Sch 4 para 4(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(4)(a). As to the statutory requirements see note 8 supra.

23 Representation of the People Act 2000 Sch 4 para 4(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(4)(b).

24 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(a).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(b). As to the address to be specified for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended), in relation to Welsh Assembly elections, see para 372 note 25 ante.

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(d).

In the case of an application to vote by post at parliamentary or local government elections under the Representation of the People Act 2000 Sch 4 para 4(1) (see the text and notes 1–8 supra) where the addresses stated in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (as amended) (see the text and note 26 supra) and reg 51(2)(d) are different, except where an applicant has, or has applied for, an anonymous entry, the application must set out why the applicant's circumstances will be or are likely to be such that he requires the ballot paper to be sent to the address stated in accordance with reg 51(2)(d): reg 51AA(1)–(3) (added by SI 2006/2910).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(e).

29 Ie under the Representation of the People Act 2000 Sch 4 para 4 (as amended): see the text and notes 1–23 supra.

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(f) (added by SI 2006/2910).

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(g) (added by SI 2006/2910).

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51B(1) (added by SI 2006/752; and renumbered by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1B (added by SI 2006/884). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51B (as added and amended) does not apply where an applicant has, or has applied for, an anonymous entry: reg 51B(2) (added by SI 2006/2910). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

33 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(5)(b).

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(5)(a).

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5).

36 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(7).

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

In relation to parliamentary or local government elections, where an application is required to contain a signature and date of birth (see note 8 supra), the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning into his record: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A) (reg 51(3A), (3B) added by SI 2006/2910). This requirement is met by configuring the information as follows: (1) the signature must appear against a background of white unlined paper of at least five centimetres long and two centimetres high (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A)(a) (as so added)); and (2) the applicant's date of birth must be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y] (reg 51(3A)(b) (as so added)). Where the application contains a request that the registration officer waive the requirement for a signature (see note 8 supra), head (1) supra does not apply: reg 51(3B) (as so added). The registration officer may satisfy himself: (a) that an application under the Representation of the People Act 2000 Sch 4 (as amended) meets any requirements that it has been signed by the applicant and states his date of birth by referring to any signature and date of birth either previously provided by the applicant to the registration officer or to the returning officer or previously provided by the applicant to the authority referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 35(2)(a) (ie the council which appointed him: see para 157 ante), which the registration officer is authorised to inspect for the purposes of his registration duties (reg 51A(a) (reg 51A added by SI 2006/752; and substituted by SI 2006/2910)); and (b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51A(b) (reg 51A as so added and substituted)).

At a Welsh Assembly election, the application must be sent and delivered in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 143 (see para 372 note 31 ante). The registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1A (added by SI 2006/884).

38 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 51(6), 52; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 paras 1(4), 5; the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 14(6), 15; and para 380 post.

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(1) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1). At a parliamentary or Welsh Assembly election where the registration

officer is not the acting returning officer for any constituency (and at a European parliamentary election where the registration officer is not the local returning officer for any local counting area) or part of such area in the area for which he is the registration officer, he must send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(5). For the meaning of 'local counting area' see para 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante. As to notification see para 372 note 35 ante.

40 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). In the case of a parliamentary, local government or European parliamentary election, the reason for the decision must also be given: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

41 See para 189 et seq ante.

377. Additional requirements for applications for a proxy vote at a particular election. An application to vote by proxy at a particular election[1] must set out why the applicant's circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station[2]. Where such an application is made on the grounds of the applicant's disability (or, in the case of a Welsh Assembly election, the applicant's physical incapacity)[3] and is made after 5 pm on the sixth day before the date of the poll at the election for which it is made[4], such an application must be attested and signed by[5]:

(1) a registered medical practitioner[6];
(2) a nurse registered on the register maintained by the Nursing and Midwifery Council[7] by virtue of qualifications in nursing[8];
(3) a Christian Science practitioner[9];
(4) (except in the case of a Welsh Assembly election) a registered dentist[10], a registered dispensing optician or registered optometrist[11], a registered pharmaceutical chemist[12], a registered osteopath[13] or a registered chiropractor[14];
(5) (except in the case of a Welsh Assembly election) a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists[15];
(6) (except in the case of a Welsh Assembly election) a person registered as a member of a profession to which the Health Professions Order 2001[16] for the time being extends[17];
(7) the person carrying on a care home registered under Part II of the Care Standards Act 2000[18] (or, in the case of a Welsh Assembly election, the person registered as carrying on a residential care home[19], where the applicant states that he is resident in such a home)[20];
(8) the warden of premises forming one of a group of premises provided for persons of pensionable age or disabled persons for which there is a resident warden, where the applicant states that he resides in such premises[21];
(9) (in the case of a Welsh Assembly election only) the matron or other person in charge of residential accommodation provided by a local authority[22], where the applicant states that he is resident in such accommodation[23];
(10) (except in the case of a Welsh Assembly election) a manager within the meaning of the Mental Health Act 1983[24], or on behalf of such a manager[25];
(11) (except in the case of a Welsh Assembly election) a person registered in the register for social workers[26].

A person who qualifies by virtue of any of heads (1) to (6) above may not attest an application for these purposes unless he is treating the applicant for the disability (or the physical incapacity) specified in the application or unless the applicant is receiving care from him in respect of that disability or incapacity (as the case may be)[27]. A person who qualifies by virtue of head (11) above may not attest an application for these purposes unless he is treating the applicant for the disability specified in the application or unless the applicant is receiving care from him in respect of that disability or unless he has arranged care or assistance for the person in respect of his disability[28]. The person attesting the application must state: (a) his name and address and the qualification by virtue of which he attests the application[29]; (b) where the person who attests the application is a person who qualifies by virtue of any of heads (1) to (6) above, that he is treating the applicant for the disability (or the physical incapacity) specified in the application or that the applicant is receiving care from him in respect of that disability or incapacity (as the case may be)[30] and, where the person who attests the application is a person who qualifies by virtue of head (11) above, that he is treating the applicant for the disability specified in the application or that the applicant is receiving care from him in respect of that disability or that he has arranged care or assistance for the applicant in respect of that disability[31]; (c) that, to the best of his knowledge and belief, the applicant has the disability (or is suffering from the physical incapacity) specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station[32] or to vote unaided there by reason of that disability or incapacity (as the case may be)[33]; and (d) that, to the best of his knowledge and belief, the disability (or the physical incapacity) specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application[34]. In addition[35], the person who attests the application must state, to the best of his knowledge and belief, the date upon which the applicant became disabled (or physically incapacitated)[36].

However, the provisions as to attestation[37] do not apply where the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority[38] which is specified in the application[39] or where the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance[40] because of the disability (or the physical incapacity) specified in the application[41].

1 Ie at a particular parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 4(2) (as amended) or at a particular Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9 (as amended) or at a particular European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 4(2) (see para 376 ante). For the meaning of 'parliamentary election' see para 9 ante. For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also para 368 note 1 ante. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to European parliamentary elections see para 224 et seq ante. In relation to a particular Welsh Assembly election see also para 376 note 4 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(1) (reg 55 substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 4(1) (Sch 2 para 4 substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 18. The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(1) (as substituted) does not apply where the applicant has an anonymous entry: reg 55(1A), (6) (reg 55(1A), (4)–(6) added by SI 2006/2910). For the meaning of 'anonymous entry', in relation to a register of electors, see para 174 ante; and for the meaning of 'his allotted polling station', in relation to an elector, see para 373 note 15 ante. The application must also satisfy the general requirements of absent voting applications (see para 376 ante). As to the offence in respect of false statements made in any declaration or form used in connection with absent voting see para 738 post. As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly

for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2)(a) (as substituted (see note 2 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 4(2)(a) (as substituted: see note 2 supra).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2)(b) (as substituted: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 4(2)(b) (as substituted: see note 2 supra).

Where an application to vote by proxy at a particular parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 4(2) (as amended) (see para 376 ante) is made by a person to whom Sch 4 para 2(5A) (as added) applies (i e persons in mental hospitals who are not detained offenders or on remand but who are liable to be detained in the mental hospital in question: see para 368 ante) after 5 pm on the sixth day before the date of the poll at the election for which it is made, the following requirements apply (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(4) (as added: see note 2 supra)): (1) the application must additionally state the name and address of the hospital at which the applicant is liable to be detained (reg 55(5)(a) (as so added)); and (2) the application must be attested by or on behalf of a manager, within the meaning of the Mental Health Act 1983 s 145(1) (as amended) (see MENTAL HEALTH vol 30(2) (Reissue) para 439), of the hospital at which the applicant is liable to be detained (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(5)(b) (as so added)), and the attestation must state: (a) the name of the person attesting the application (reg 55(5)(b)(i) (as so added)); (b) his position in the hospital at which the applicant is liable to be detained (reg 55(5)(b)(ii) (as so added)); (c) that he is a person authorised to make the attestation (reg 55(5)(b)(iii) (as so added)); and (d) the statutory provision under which the applicant is liable to be detained in the hospital (reg 55(5)(b)(iv) (as so added)).

5 Ibid reg 53(2) (reg 53(2)–(4) substituted by SI 2006/2910) (applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)). As to the offence of attesting such an application when not authorised to do so see para 738 post.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(a) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(a) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

7 Ie the register maintained under the Nursing and Midwifery Order 2001, SI 2002/253, art 5 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 717).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(b) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(b) (substituted by SI 2004/1771) (applied by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 4(2) (as substituted: see note 2 supra)).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(h) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(c) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(c) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered dentist as defined by the Dentists Act 1984 s 53(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 417).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(d) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered dispensing optician or a registered optometrist within the meaning of the Opticians Act 1989 (as amended) (see MEDICAL PROFESSIONS).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(e) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered pharmaceutical chemist as defined by the Pharmacy Act 1954 s 24(1) (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 417).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(f) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered osteopath as defined by the Osteopaths Act 1993 s 41 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 503).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(g) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a registered chiropractor as defined by the Chiropractors Act 1994 s 43 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 595).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(i) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra).

16 Ie the Health Professions Order 2001, SI 2001/254 (as amended).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(j) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). As to persons registered as members of a profession to which the Health Professions Order 2001, SI 2001/254 (as amended) for the time being extends see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 308 et seq.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(k) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to a care home registered under the Care Standards Act 2000 Pt II (ss 11–42). As to the registration of residential care homes see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1042 et seq.

19 In the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(d) specifies a residential care home within the meaning of the Registered Homes Act 1984 s 1 (repealed) which is required to be registered under Pt I (ss 1–20) (repealed); but see also the National Assembly for Wales (Representation of the People) Order 2003, SI 2007/236, Sch 1 para 4(2)(k), which is framed in similar terms to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(k) (as substituted) (see the text and note 18 supra).

20 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(d); applied by Sch 2 para 4(2) (as substituted: see note 2 supra).

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(l) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(f) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

22 Ie under the National Assistance Act 1948 s 21(1) (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) paras 1029–1030).

23 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)(e); applied by Sch 2 para 4(2) (as substituted: see note 2 supra).

24 Ie within the meaning of the Mental Health Act 1983 s 145(1) (as amended) (see MENTAL HEALTH vol 30(2) (Reissue) para 439).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(m) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra).

26 Ibid reg 53(2)(n) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra). The text refers to the register for social workers maintained in accordance with the Care Standards Act 2000 s 56 (see SOCIAL SERVICES AND COMMUNITY CARE).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(3)(a) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(3) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(3)(b) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra).

29 Ibid reg 53(4)(a) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(a) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

A person who qualifies by virtue of head (10) in the text must, instead of the matters specified in head (a) in the text, state in the attestation his name, his position in the hospital at which the applicant is liable to be detained or at which he is receiving treatment, that he is a person authorised to make the attestation and, in the case of an applicant who is liable to be detained in hospital, the statutory provision under which the applicant is liable to be so detained: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5A) (added by SI 2006/2910); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2) (as substituted: see note 2 supra).

30 Ibid reg 53(4)(b) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(a) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(c) (as substituted: see note 5 supra); applied by reg 55(2) (as substituted: see note 2 supra).

32 For these purposes, 'his allotted polling station', in relation to an elector, means the polling station allotted or likely to be allotted to him under the appropriate rules: ibid reg 53(7) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(7) (applied by Sch 2 para 4(2) (as so substituted)). As to the appropriate rules, in relation to a parliamentary or local government election, see para 368 note 2 ante; and, in relation to a Welsh Assembly election, see para 369 note 2 ante.

33 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(d) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(b) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(4)(e) (as substituted: see note 5 supra) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(4)(c) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

35 Ie in addition to those matters specified, in relation to a particular parliamentary or local government election, in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53 (as amended) (applied by reg 55(2) (as substituted)) or, in relation to a particular Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2 (as amended) (applied by Sch 2 para 4(2) (as substituted)) (whichever is appropriate) (see the text and notes 29–34 supra).

36 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(3) (as substituted (see note 2 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 4(3) (as substituted: see note 2 supra).

37 Ie, in relation to a particular parliamentary or local government election, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)–(4) (as substituted) (applied by reg 55(2) (as substituted)) or, in relation to a particular Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(2)–(4) (as amended) (applied by Sch 2 para 4(2) (as substituted)) (whichever is appropriate) (see the text and notes 5–34 supra).

38 Ie the local authority which has made arrangements for compiling and maintaining classified registers of persons who are blind, etc under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1021).

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(a) (applied by reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(5)(a) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)). The fact that an applicant is registered with a local authority under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1021) is deemed sufficient evidence that he is eligible to vote by proxy on grounds of physical incapacity (see para 373 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(6) (applied by reg 55(2) (as so substituted)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(6) (applied by Sch 2 para 4(2) (as so substituted)).

40 Ie payable under the Social Security Contributions and Benefits Act 1992 ss 71, 73 (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 106).

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(b) (amended by SI 2006/2910) (applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2) (as substituted: see note 2 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 2(5)(b) (applied by Sch 2 para 4(2) (as substituted: see note 2 supra)).

378. Lists of absent voters. In respect of each parliamentary[1], local government[2], Welsh Assembly[3] or European parliamentary election[4], the registration officer[5] must keep two special lists in respect of absent voters[6]. The first is a list[7]: (1) of those whose applications to vote by post at that particular election[8] have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent[9]; and (2) of those who are for the time being shown in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period[10] as voting by post at particular elections of the kind in question[11], together with the addresses provided by them in their applications[12] as the addresses to which their ballot papers are to be sent[13]. The second list is of[14]: (a) those whose

applications to vote by proxy at that particular election[15] have been granted[16]; or (b) those who are for the time being shown in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period[17] as voting by proxy at particular elections of the kind in question[18] together with (in each case) the names and addresses of those appointed as their proxies[19].

The registration officer must also keep a record in relation to those whose applications for an absent vote at a particular parliamentary or local government election have been granted[20] showing their dates of birth[21] and, except in cases where the registration officer[22] has dispensed with the requirement to provide a signature, their signatures[23]. This record must be retained by the registration officer for the prescribed period[24]. The registration officer must either provide a copy of the information contained in records so kept by him[25] to the returning officer for an election in relation to electors at the election[26] or give the returning officer access to such information[27]. Information contained in such records may be disclosed by a registration officer (subject to any prescribed conditions) to any other registration officer if he thinks that to do so will assist the other registration officer in the performance of his duties[28], or to any person exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts[29] or to such other persons for such other purposes relating to elections as may be prescribed[30].

Any person entitled to be supplied with copies of the full register[31] is also a person entitled[32] to request that the registration officer supply free of charge the relevant part[33] of a copy of any of the following information which he keeps[34], namely: (i) the current version of the information which would, in the event of a particular parliamentary or local government election, be included in the postal voters lists or the list of proxies[35]; and (ii) the current or final version of the postal voters list or the list of proxies[36]. The registration officer must supply a current copy of the information so requested as soon as practicable after receipt of a request that is duly made[37]; and he must supply a final copy of the postal voters list as soon as practicable after 5 pm on the eleventh day before the day of the poll[38], in response to a request that has been duly made[39]. As soon as practicable after 5 pm on the sixth day before the day of the poll the registration officer must[40]: (A) make a copy of the postal voters list and the list of proxies available for inspection at his office, in response to a request that has been duly made[41]; and (B) at a parliamentary election, if he is not the acting returning officer for any constituency or part of a constituency in the area for which he is the registration officer, send to that officer a copy of those lists[42]; (C) supply a final copy of the postal voters lists or the list of proxies in response to every request that has been duly made[43].

As soon as practicable after the sixth day[44] before the day of the poll[45] at a Welsh Assembly or European parliamentary election, the registration officer must publish the absent voters list by making a copy of it available for inspection at his office[46]. The registration officer at a Welsh Assembly election must, on request, supply free of charge a copy of the absent voters list to each candidate at a constituency election or his election agent[47] or, in the case of a regional election[48], to each individual candidate[49] or group of party list candidates[50] (or to his or their election agent)[51]. The registration officer at a European parliamentary election must, on request, supply free of charge a copy of the absent voters list to the election agent of each registered party[52] standing nominated and each individual candidate[53] or his election agent[54].

1 For the meaning of 'parliamentary election' see para 9 ante.
2 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.
3 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
4 As to European parliamentary elections see para 224 et seq ante.
5 As to electoral registration officers and the areas for which they act see para 154 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 5(1) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 para 137(1), (5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(1).

For the purposes of a parliamentary or local government election, the requirement under the Representation of the People Act 2000 Sch 4 para 5(1) (as amended) is to keep the two special lists which are mentioned in Sch 4 para 5(2) (i e the list of persons whose applications to vote by post have been granted (the 'postal voters list'): see the text and note 7 infra) and in Sch 4 para 5(3) (i e the list of persons whose applications to vote as proxy have been granted (the 'list of proxies'): see the text and note 14 infra): Sch 4 para 5(1) (as so amended). In the case of a person who has an anonymous entry in a register, the postal voters list or list of proxies (as the case may be) must show in relation to the person only his electoral number and the period for which the anonymous entry has effect: Representation of the People Act 2000 Sch 4 para 5(4) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 22). For the meaning of 'electoral number' see para 160 ante; and for the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

For the purposes of a Welsh Assembly election, the two lists in respect of absent voters constitute a special list known as the 'absent voters list' which has the meaning given by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1): see art 2(1). Any list such as is mentioned in the text that is kept in relation to a Welsh Assembly election may be in such form as the registration officer thinks fit (art 14(2), Sch 2 para 11(1)); but where electors are entitled to give two votes at an ordinary election in an Assembly constituency, only one absent voters list is to be kept and that list has effect in relation to both elections (art 10(2)). Where a National Assembly for Wales constituency is not coterminous with, or wholly situated in, a county or county borough: (1) the registration officer for any part of the Assembly constituency must, if he is not the returning officer for the constituency, consult him concerning the form of so much of the absent voters list, including the list of proxies (see the text and notes 14–19 infra), as relates to the constituency in order to ensure that, so far as practicable, it is in a form similar to that in use elsewhere in the constituency; and (2) if the registration officer for any part of the Assembly constituency at an Assembly election is not the returning officer for the constituency, he must forthwith supply to the constituency returning officer a copy of the compiled absent voters list on completion of its compilation: art 139. For the meaning of 'Assembly constituency' see para 3 note 1 ante; and for the meaning of 'constituency returning officer' for these purposes see para 18 note 2 ante. As to counties and county boroughs in Wales see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq. As to ordinary general elections to the National Assembly for Wales see para 220 et seq ante.

For the purposes of a European parliamentary election, the 'absent voters list' means, in relation to any election, the list kept under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5: reg 2(1). In relation to such an election, the registration officer must, forthwith on completion of the compilation of the special list, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to that constituency: Sch 2 para 5(4). For the meaning of 'local counting area' see para 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.

7 Representation of the People Act 2000 Sch 4 para 5(2) (amended by the Electoral Administration Act 2006 Sch 1 para 137(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(2).

The list referred to in the text which is kept in relation to a parliamentary or local government election pursuant to the Representation of the People Act 2000 Sch 4 para 5(2) (i e the list of persons whose applications to vote by post have been granted) is known as the 'postal voters list': see the Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 Sch 1 paras 104, 128(1), (3)); and the Representation of the People Act 2000 Sch 4 para 5(2) (as so amended).

8 Ie applications made, in relation to a particular parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(1) (as amended) or made, in relation to a particular Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(1) (as amended) or made, in relation to a particular European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(1) (whichever is appropriate) (see para 376 ante). In relation to a particular Welsh Assembly election see also para 376 note 4 ante.

9 Representation of the People Act 2000 Sch 4 para 5(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(2)(a). In relation to a Welsh Assembly election, in the first part of the absent voters list, the address to which a ballot paper (or, where a person is entitled to give

two votes at an ordinary election, ballot papers) is to be sent to a person who is entitled to vote by post as an elector must be placed on the right hand side of his name and electoral number: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(2). For this purpose, 'electoral number' means a person's number in the register to be used at the election or, pending publication of the register, his number (if any) in the electors' lists for that register: Sch 2 para 11(9).

10 Ie the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see para 375 ante).

11 Ie excluding those so shown whose applications to vote by proxy at the election, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(3)(b) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9(2) (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(3)(b) (whichever is appropriate) have been granted (see para 376 ante).

12 Ie the applications made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or Sch 4 para 4(3)(a) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 or art 9(2) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) or Sch 2 para 4(3)(a) (whichever is appropriate) (see paras 375–376 ante).

13 Representation of the People Act 2000 Sch 4 para 5(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(2)(b). In relation to a Welsh Assembly election see note 8 supra.

14 Representation of the People Act 2000 Sch 4 para 5(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(3).

The list referred to in the text which is kept in relation to a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 5(3) (i e the list of persons whose applications to vote as proxy have been granted) is known as the 'list of proxies': see the Representation of the People Act 1983 s 202(1) (definition added by the Representation of the People Act 1985 ss 4(5), 11, Sch 2 Pt I; and amended by the Representation of the People Act 2000 s 15, Sch 6 paras 3, 9(b)); and the Representation of the People Act 2000 Sch 4 para 5(3).

For the purposes of a Welsh Assembly election, the 'list of proxies' has the meaning given by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b): art 2(1).

For the purposes of a European parliamentary election, the 'list of proxies' has, in relation to any European parliamentary election, the meaning given by the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4)(c) (see para 375 ante): reg 2(1).

15 Ie the applications made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(2), (3) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(2), (3) (whichever is appropriate) (see para 376 ante).

16 Representation of the People Act 2000 Sch 4 para 5(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(3)(a).

17 See note 10 supra.

18 Representation of the People Act 2000 Sch 4 para 5(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(3(b).

19 Representation of the People Act 2000 Sch 4 para 5(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5(3). In relation to a Welsh Assembly election, in the list of proxies, the name and address of the proxy must be placed on the right hand side of the elector's name and electoral number (see note 9 supra): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(3).

20 Ie applications made under the Representation of the People Act 2000 Sch 4 para 4 (as amended) (see para 376 ante).

21 Ibid Sch 4 para 4(6)(a) (Sch 4 para 4(6), (7) added by the Electoral Administration Act 2006 s 14(2)(c), (8)).

22 Ie in pursuance of the Representation of the People Act 2000 Sch 4 para 4(5) (as added) (see para 376 ante).

23 Ibid Sch 4 para 4(6)(b) (as added: see note 21 supra).

24 Ibid Sch 4 para 4(7) (as added: see note 21 supra). 'Prescribed' means prescribed by regulations: see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). As to the retention of the records referred to in the text see para 503 et seq post.

25 Ie in pursuance of ibid Sch 4 para 4(6) (as added) (see the text and notes 20–23 supra).

26 Ibid Sch 4 para 7C(a) (Sch 4 paras 7C–7D added by the Electoral Administration Act 2006 s 14(4), (8)).

27 Representation of the People Act 2000 Sch 4 para 7C(b) (as added: see note 26 supra).

28 Ibid Sch 4 para 7D(a) (as added: see note 26 supra). As to the prescribed requirements see note 24 supra.

29 Ibid Sch 4 para 7D(b) (as added: see note 26 supra). For the meaning of 'the Representation of the People Acts' see para 3 note 1 ante.

30 Ibid Sch 4 para 7D(c) (as added: see note 26 supra). As to the prescribed requirements see note 24 supra.

31 Ie in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see para 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see para 182 ante), reg 106 (as added) (supply of full register to registered political parties: see para 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see para 182 ante). For the meaning of 'full register' see para 166 note 2 ante.

32 Ie subject to ibid reg 61 (as substituted) and reg 61A (as added) (see note 34 infra).

33 Ie within the meaning of the regulations specified in note 31 supra.

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(1) (reg 61 substituted by SI 2006/2910). A request such as is mentioned in the text must be made in writing and must specify the information (or the relevant parts of the information) requested, whether the request is made only in respect of the current lists or whether it includes a request for the supply of any final list and whether a printed copy of the records or lists is requested or a copy in data form: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(2) (as so substituted). For the meaning of 'data form' see para 177 note 11 ante. Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see para 156 ante), any duty on a registration officer to supply a copy under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61 (as substituted) imposes only a duty to provide that information in the form in which he holds it: reg 61(15) (as so substituted). As to the Secretary of State see para 2 ante.

A person who obtains any information under reg 61 (as substituted) may use it only for the permitted purposes specified in reg 61A (as added), and any restrictions specified in reg 61A (as added), or which would apply to the use of the full register under whichever of reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see para 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see para 182 ante), reg 106 (as added) (supply of full register to registered political parties: see para 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see para 182 ante) entitled that person to obtain that information, apply to such use: reg 61(3) (as so substituted). Any person who has obtained or is entitled to obtain a copy of information covered by reg 61(1) (as substituted) (see heads (i) and (ii) in the text) may supply a copy of the information to a processor for the purpose of processing the information, or procure that a processor processes and supplies to him any copy of the information which the processor has obtained under reg 61 (as substituted), for use in respect of the purposes for which that person is entitled to obtain such information: reg 61(8) (as so substituted). The processor may not disclose the information so supplied except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (reg 92 added by SI 2002/1871); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(9) (as so substituted). As to references to an employee of any person who has access to a copy of the full register see para 177 note 6 ante; and for the meaning of 'processor' see para 177 note 11 ante (definitions applied by virtue of reg 61(9) (as substituted)).

The restrictions on the supply, disclosure and use of the full register in reg 94 (as added) (restrictions on supply of full register and disclosure of information from it by the registration officer and his staff: see para 176 ante) and reg 96 (as added and amended) (restrictions on use of full register or information contained in it: see para 176 ante) apply to information covered by heads (i) and (ii) in the text as they apply to the full register, except that the permitted purpose (as to which see para 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33

(see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) para 551) or electoral purposes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61A (added by SI 2006/2910).

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(1)(a) (as substituted: see note 34 supra). The registration officer must ensure that where he supplies or discloses information covered by head (i) in the text in accordance with reg 61 (as substituted), he does not supply or disclose any record relating either to a person who has an anonymous entry or to the proxy of a person who has an anonymous entry: reg 61(17), (18) (as so substituted). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

36 Ibid reg 61(1)(b) (as substituted: see note 34 supra).

37 Ibid reg 61(4) (as substituted: see note 34 supra). For these purposes, a 'current copy' of records or lists is a copy of the records or lists as kept by the registration officer at 9 am on the date it is supplied: reg 61(16)(a) (as so substituted).

38 For these purposes, any period of days must be calculated in accordance with ibid reg 56(6), (7) (s 56(6) as amended) (see para 372 note 6 ante): reg 61(16)(b) (as substituted: see note 34 supra). As to the date of the poll at a parliamentary general election or by-election see para 202 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante.

39 Ibid reg 61(5) (as substituted: see note 34 supra). The text refers to a request that has been duly made under reg 61(1) (as substituted) (see the text and notes 31–36 supra).

40 Ibid reg 61(6) (as substituted: see note 34 supra).

41 Ibid reg 61(6)(a) (as substituted: see note 34 supra). The text refers to information made available for inspection in accordance with reg 61(10)–(15) (as substituted). Any person is entitled to request that the registration officer make available for inspection a copy of any of the information specified in heads (i) and (ii) in the text: reg 61(10) (as so substituted). Such a request must be made in writing and must specify: the information (or relevant parts of the information) requested, whether the request is made only in respect of the current lists or whether it includes a request for the inspection of any final list, who will inspect the information, the date on which they wish to inspect the information and whether they would prefer to inspect the information in a printed or data form: reg 61(11) (as so substituted). The registration officer must make a copy of the information available for inspection under supervision as soon as practicable after the date of receipt of a request that has been duly made: reg 61(12) (as so substituted). Where inspection takes place by providing a copy of the information on a computer screen or otherwise in data form, the registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of that copy by electronic or any other means: reg 61(13) (as so substituted). A person who inspects a copy of the information, whether a printed copy or in data form, may not make copies of any part of it, or record any particulars in it, otherwise than by means of handwritten notes: reg 61(14) (as so substituted). Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see para 156 ante), any duty on a registration officer to make information available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61 (as substituted) imposes only a duty to provide that information in the form in which he holds it: reg 61(15) (as so substituted). The provision allowing copying that usually applies where a document is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) does not apply to copies of information covered by heads (i) and (ii) in the text: reg 7(6) (added by SI 2006/2910).

42 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(6)(b) (as substituted: see note 34 supra).

43 Ibid reg 61(6)(c) (as substituted: see note 34 supra). The text refers to a request that has been duly made under reg 61(1) (as substituted) (see the text and notes 31–36 supra). The registration officer must supply a final copy of the proxy voters list, updated to include any additions to that list made in consequence of any applications granted in accordance with reg 56(3A) (as added and substituted) (see para 376 ante), as soon as practicable after 5 pm on the day of the poll, to every person who received that list in accordance with reg 61(6)(c) (as substituted): reg 61(7) (as so substituted).

44 As to the computation of time for these purposes see para 372 note 6 ante.

45 As to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

46 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(3)(a). At a European parliamentary election, if the registration officer is not the local returning officer for any local counting area or part of such area in the area for which he is the registration officer, he must send to that officer a copy of the lists referred to in the text: Sch 2 para 24(3)(b). In relation to a Welsh Assembly election, it is stated that the registration officer must continue to make a copy of the list available until the date of the

poll (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(6)); and any person may make a copy (whether handwritten or by other means) of the whole or any part of it (art 144(2)).

47 Ibid Sch 2 para 11(7)(a). If a request is made as mentioned in the text before any issue of postal ballot papers, the registration officer must before that issue supply a copy of those lists or so much of them as relates to that issue: Sch 2 para 11(8). For the meaning of 'candidate' generally see para 237 ante; and for the meaning of 'constituency election' in relation to a Welsh Assembly election see para 3 note 1 ante. As to the appointment of election agents see para 238 et seq ante.

48 For the meaning of 'regional election', in relation to a Welsh Assembly election, see para 3 note 1 ante.

49 For the meaning of 'individual candidate', in relation to a Welsh Assembly election, see para 237 note 23 ante.

50 For the meaning of references to a group of party list candidates for this purpose see para 237 note 23 ante.

51 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(7)(b). See note 47 supra.

52 For the meaning of 'registered party' for these purposes see para 237 note 30 ante. As to the submission by a registered party of lists of candidates to be members of the European Parliament ('MEPs') see para 235 ante.

53 For the meaning of 'individual candidate', in relation to a European parliamentary election, see para 237 note 32 ante.

54 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(1).

(C) Applications by Persons to Vote as Proxy for an Elector

(a) Appointment as Proxy

379. Capacity of person to act as proxy for an elector. Any person is capable of being appointed proxy to vote for another[1] at any parliamentary[2], local government[3], Welsh Assembly[4] or European parliamentary election[5] and he may vote in pursuance of the appointment[6]. However, the elector[7] cannot have more than one person at a time appointed as proxy to vote for him at parliamentary or Welsh Assembly elections (whether in the same constituency[8] or elsewhere)[9] or at local government elections in the same electoral area[10]. Nor can an elector have more than one person at a time appointed as proxy to vote for him at European parliamentary elections (whether in the same electoral region[11] or elsewhere)[12].

A person is not capable of being appointed to vote, or voting, as proxy if he is subject to any legal incapacity[13] (age apart[14]) to vote at that election as elector[15] or if:

(1) at a parliamentary election, he is neither a Commonwealth citizen[16] nor a citizen of the Republic of Ireland[17];

(2) at a local government election or at a Welsh Assembly election, he is neither a Commonwealth citizen nor a citizen of the Republic of Ireland nor a relevant citizen of the Union[18]; or

(3) at a European parliamentary election, he is neither a Commonwealth citizen nor a citizen of the Union[19].

A person is not capable of voting as proxy at any such election unless on the date of the poll he has attained the age of 18[20]. A person is not entitled to vote as proxy: (a) at the same parliamentary election in any constituency[21]; or (b) at the same local government election in any electoral area[22]; or (c) at Welsh Assembly constituency or regional elections[23]; or (d) at the same European parliamentary election in any electoral region[24], on behalf of more than two electors of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild[25].

1 Ie subject to the restrictions contained, in relation to a parliamentary or local government election, in the Representation of the People Act 2000 s 12, Sch 4 para 6 (as amended) or, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11 (as amended) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7 (as amended) (whichever is

appropriate) (see para 376 ante). As to applications made by an elector to vote by proxy at elections for a particular period or for an indefinite period see para 372 et seq ante; and as to such applications made in relation to a particular election see para 376 et seq ante.

2 For the meaning of 'parliamentary election' see para 9 ante.

3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also para 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

5 As to European parliamentary elections see para 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 6(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(1).

7 For these purposes, the term 'elector' refers to a person for whom a proxy is appointed: Representation of the People Act 2000 Sch 4 para 6(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(1). Under the general definition of that term (in relation to a parliamentary or local government election, see para 110 note 2 ante; in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante), an elector is required to be registered in the register of electors to be used at an election; however, a person may be appointed as proxy for another person notwithstanding that the latter is not at the time registered as an elector if the registration officer is satisfied that he will be registered: see para 380 post.

8 For the meaning of 'constituency' in relation to a parliamentary election see para 9 ante; and for the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.

9 Representation of the People Act 2000 Sch 4 para 6(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(2).

10 Representation of the People Act 2000 Sch 4 para 6(2)(b). For the meaning of 'electoral area' see para 10 ante; definition applied by virtue of Sch 4 para 1(2).

11 As to electoral regions constituted for the purposes of European parliamentary elections see para 76 ante.

12 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(2).

13 As to the meaning of 'legal incapacity (to vote)' see paras 110 note 8, 117 note 6, 162 note 18 ante.

14 'Voting age' is currently 18 years for all purposes: see paras 110 note 2, 112 note 14, 117 note 9 ante.

15 Representation of the People Act 2000 Sch 4 para 6(3)(a), (4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(3)(a).

16 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 11.

17 Representation of the People Act 2000 Sch 4 para 6(3)(b). As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 12.

18 Representation of the People Act 2000 Sch 4 para 6(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(3)(b). For the meaning of 'relevant citizen of the Union' for these purposes see paras 112 note 13, 162 note 16 ante.

19 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(3)(b).

20 Representation of the People Act 2000 Sch 4 para 6(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(4). As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

21 Representation of the People Act 2000 Sch 4 para 6(6)(a).

22 Ibid Sch 4 para 6(6)(b).

23 Ie in the case of an ordinary election, at constituency elections in Assembly constituencies in an Assembly electoral region (or in one such election) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(5)(a)); in the case of a constituency election other than at an ordinary election, at the constituency election (art 11(5)(b)); or at a regional election (whether or not at an ordinary election) (art 11(5)(c)). As to ordinary general elections to the National Assembly for Wales see para 12 et seq ante. In relation to a Welsh Assembly election, for the meanings of 'Assembly constituency', 'Assembly region', 'constituency election' and 'regional election' see para 3 note 1 ante.

24 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(5).

25 Representation of the People Act 2000 Sch 4 para 6(6) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 164(1), (3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(5) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(5) (amended by SI 2005/2114).

380. Applications for appointment to vote as proxy for an elector. Where the elector[1] applies to the registration officer[2] for the appointment of a proxy to vote for him at parliamentary[3] or local government elections[4] (or at both) or at Welsh Assembly[5] or European parliamentary elections[6] (whether for an indefinite period or for a particular period specified in his application[7]), the registration officer must make the appointment if the application meets the statutory requirements[8] and he is satisfied that the elector is or will be[9] registered in the register of electors for the election in question[10] and shown in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period[11] as voting by proxy at such elections[12], and that the proxy is capable of being, and willing to be, appointed to vote as proxy at such elections[13].

Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular such election[14], the registration officer must make the appointment if the application meets the statutory requirements[15] and he is satisfied that the elector[16] is or will be registered in the relevant register in relation to that election[17] and is or will be entitled to vote by proxy at that election by virtue of that application[18], and that the proxy is capable of being, and willing to be, appointed[19].

Such an application[20] must state: (1) the full name of the applicant[21]; and (2) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register[22]. The application must be made in writing and dated[23]. Such an application which is made for an indefinite period or the period specified in the application must specify the election (or elections) in respect of which it is made[24] and (except in relation to Welsh Assembly elections) must state that it is made for an indefinite period or for a period specified in the application[25]. An application which is made for a particular election must identify the election in question[26] and (except in relation to Welsh Assembly elections) must state that it is so made[27]. An application for a parliamentary or a local government election may be combined where the polls fall on the same day[28], and such an application (whether combined or not) may be used in combination with that for an absent vote at a particular European parliamentary election[29]. An application for the appointment of a proxy must state also the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant[30]. If the application is signed only by the applicant, it must contain a statement by him that he has consulted the person so named and that the person is capable of being and willing to be appointed to vote as his proxy[31]. If the application is signed also by the person to be appointed, it must contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant's proxy[32].

The appointment of a proxy is to be made by means of a proxy paper in the prescribed form issued by the registration officer[33].

Where the registration officer grants an application for the appointment of a proxy, he must confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment[34]. Where he refuses an application, he must notify the applicant of his decision[35].

1 For the meaning of 'elector' for these purposes see para 379 note 7 ante.

2 As to electoral registration officers and the areas for which they act see para 154 et seq ante. The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election or elections: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 140; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 9(1).

3 For the meaning of 'parliamentary election' see para 9 ante.

4 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.

5 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

6 As to European parliamentary elections see para 224 et seq ante.

7 As to such applications see para 372 ante.

8 The text refers to the requirements set out, in the case of a parliamentary or local government election, in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended) or, in the case of a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended) (whichever is appropriate). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), the requirements are as prescribed; and 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)).

An application referred to in the text must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that election: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(2) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(2). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). In relation to a Welsh Assembly election, the officer must also date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the computation of time for these purposes see para 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

9 Representation of the People Act 2000 Sch 4 para 6(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(6).

10 Representation of the People Act 2000 Sch 4 para 6(7)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(6)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(6)(a).

In the case of a parliamentary election, the register referred to is the register of parliamentary electors and, in the case of a local government election, it is the register of local government electors (although an application under the Representation of the People Act 2000 Sch 4 (as amended) may relate to both types of election, in which case the requirement is for the elector to be registered in both). In the case of a Welsh Assembly election, the requirement is for the elector to be registered in the register of local government electors (as to which see para 160 ante). In the case of a European parliamentary election, the 'register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see para 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see para 156 ante); and (4) (for the purposes of European parliamentary elections held in the combined region) the Gibraltar register (see para 131 note 2 ante), in force within an electoral region at the time of a European parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to electoral regions established for the purposes of European parliamentary elections (including the combined region) see para 76 ante; as to registration as an elector see para 128 et seq ante; and as to the registers of electors maintained by registration officers see para 156 et seq ante.

11 Ie the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see para 375 ante).

12 Representation of the People Act 2000 Sch 4 para 6(7)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(6)(b).

13 Representation of the People Act 2000 Sch 4 para 6(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(6).

14 As to such applications see para 376 ante.

15 As to the statutory requirements see note 8 supra; and as to the requirements prescribed see para 376 ante. Such an application must be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(3). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4).

16 Representation of the People Act 2000 Sch 4 para 6(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7).

17 Representation of the People Act 2000 Sch 4 para 6(8)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7)(a). As to the registers in use for each election see note 10 supra.

18 Representation of the People Act 2000 Sch 4 para 6(8)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7)(b). Where an application is made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4(2) (as amended) (see para 376 ante) on the grounds of the applicant's disability and the applicant became disabled after 5 pm on the sixth day before the date of the poll at the election for which it is made or by a person to whom Sch 4 para 2(5A) (as added) applies (i e a person in a mental hospital who is not a detained offender or on remand but who is liable to be detained in the mental hospital in question: see para 368 ante), the application, or an application under Sch 4 para 6(8) (application for the appointment of a proxy to vote at a particular election: see para 380 post) made by virtue of that application, must be refused if it is received after 5 pm on the day of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3A) (added by SI 2006/752; and substituted by SI 2006/2910). In relation to a Welsh Assembly election, where such an application is made on the grounds of the applicant's physical incapacity, and the applicant became physically incapacitated after 5 pm on the sixth day before the date of the poll at the election for which it is made, the application must be refused if it is received after 5 pm on the day of the poll at the election for which it is made: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(1B) (added by SI 2006/884). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

19 Representation of the People Act 2000 Sch 4 para 6(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(7).

20 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1).

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(a).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(b). As to the address to be specified for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended) in relation to Welsh Assembly elections see para 372 note 25 ante.

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

At a Welsh Assembly election, the application must be sent and delivered in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 143 (see para 372 note 31 ante).

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(b).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(a).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(b).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(a).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5).

29 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(7).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 51(6), 52; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 paras 1(4), 5; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 14(6), 15.

31 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 52(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 5(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 15(a). As to capacity to act as proxy see para 379 ante.

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 52(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 5(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 15(b).

33 Representation of the People Act 2000 Sch 4 para 6(9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(8). As to forms generally see note 2 supra. As to the prescribed form of proxy paper for the purposes of a parliamentary or local government election see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(3), Sch 3 (Form E: proxy paper) (amended by SI 2005/2114). The forms set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (as amended) or forms substantially to the like effect may be used with such variations as the circumstances may require: reg 4(2). A version of the form partly in Welsh and partly in English must be used in Wales: see the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6, Sch 2 (Form 9: proxy paper).

For the purposes of a Welsh Assembly election, the proxy paper to be issued by the registration officer on the appointment of a proxy must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(3), Appendix of Forms (Form of proxy paper) (amended by SI 2005/2114), but this may be combined with another form of proxy paper if the registration officer is issuing a proxy paper appointing that person as proxy for the same elector in respect of another election or other elections: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(3).

For the purposes of a European parliamentary election, the appointment of a proxy is to be made by means of a proxy paper in the form set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 1(2), 6(8), Appendix of Forms (Form A: proxy paper) (amended by SI 2005/2114). A version of the form partly in Welsh and partly in English must be used in Wales: see the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6, Sch 2 (Form 6: proxy paper, papur dirprwy).

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(2) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(2).

35 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). Except in the case of a Welsh Assembly election, the reason for the decision must also be given: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); European Parliamentary Elections

Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to notification see para 372 note 35 ante. An appeal does not lie from any such decision of the registration officer: see para 189 et seq ante.

381. Duration of appointment to vote as proxy for an elector. The appointment of a proxy[1] may be cancelled by the elector[2] giving notice to the registration officer[3]. The appointment also ceases to be in force[4]:

(1) where it related to a parliamentary election[5] or elections, on the issue of a proxy paper[6] appointing a different person to vote for him at such an election or elections (whether in the same constituency[7] or elsewhere)[8];

(2) where it related to a local government election[9] or elections, on the issue of a proxy paper appointing a different person to vote for him at such an election or elections in the same electoral area[10];

(3) where it related to a Welsh Assembly election[11], on the issue of a proxy paper appointing a different person to vote for him at an Assembly election or Assembly elections (whether in the same Assembly constituency[12] or elsewhere)[13];

(4) where it related to a particular European parliamentary election or elections[14], on the issue of a proxy paper appointing a different person to vote for him at a European parliamentary election or elections (whether in the same electoral region[15] or elsewhere)[16];

(5) where the appointment was for a particular period, once that period expires[17].

The appointment otherwise remains in force for the particular election for which the appointment was made[18] or, where the appointment was made for a particular period or for an indefinite period, while the elector is shown as voting by proxy in the record kept of those entitled to an absent vote at elections either for a particular period or for an indefinite period[19], in pursuance of the same application[20] in respect of which he was included in that record[21].

Except in relation to a European parliamentary election, where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer must, where practicable, notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it[22]. Where the appointment of a proxy is cancelled by notice given to the registration officer or so ceases to be in force[23] or is no longer in force for a particular period or for an indefinite period[24], the registration officer[25] must notify the person whose appointment as proxy has been cancelled, expired, ceases to be or is no longer in force (unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy)[26] and must remove his name from the record of names and addresses of those appointed as proxies[27].

1 As to applications for the appointment of a proxy see para 380 ante.

2 For the meaning of 'elector' for these purposes see para 379 note 7 ante.

3 Representation of the People Act 2000 s 12, Sch 4 para 6(10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 6(9). However, such a notice must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election (or the sixth day in relation to a Welsh Assembly election): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 6(3)(c), (ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(5). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary

Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the computation of time for these purposes see para 372 note 6 ante. As to electoral registration officers and the areas for which they act see para 154 et seq ante. As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

4 Representation of the People Act 2000 Sch 4 para 6(10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(9).

5 For the meaning of 'parliamentary election' see para 9 ante.

6 As to the issue of a proxy paper by the registration officer see para 380 ante.

7 For the meaning of 'constituency' in the context of a parliamentary election see para 9 ante.

8 Representation of the People Act 2000 Sch 4 para 6(10)(a).

9 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of ibid Sch 4 para 1(2). See also para 368 note 1 ante.

10 Ibid Sch 4 para 6(10)(b). For the meaning of 'electoral area' see para 10 ante; definition applied by virtue of Sch 4 para 1(2).

11 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

12 For the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see para 3 note 1 ante.

13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9).

14 As to European parliamentary elections see para 224 et seq ante.

15 As to electoral regions constituted for the purposes of European parliamentary elections see para 76 ante.

16 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(9)(a).

17 Representation of the People Act 2000 Sch 4 para 6(10)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(9)(b).

18 Representation of the People Act 2000 Sch 4 para 6(11)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(10)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(10)(a).

19 Ie the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see para 375 ante).

20 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see para 375 ante).

21 Representation of the People Act 2000 Sch 4 para 6(11)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(10)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(10)(b).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4C) (added by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4C) (added by SI 2006/884). As to notification see para 372 note 35 ante.

23 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 6(10) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(9) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(9) (whichever is appropriate) (see the text and notes 1–3 supra).

24 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 6(11)(b) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 11(10)(b) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 6(10)(b) (whichever is appropriate) (see the text and notes 19–21 supra).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 9; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 22.

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 9(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 22(a).

27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 9(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 22(b). The text refers to the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 Sch 4 para 3(4)(c) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4), (5)(b) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (whichever is appropriate) (see para 375 ante).

(b) Voting in Person as Proxy for an Elector

382. Voting in person where a proxy has been appointed. A person entitled to vote as proxy for an elector[1] at a parliamentary[2], local government[3], Welsh Assembly[4] or European parliamentary election[5] may do so in person at the polling station allotted to the elector under the appropriate rules[6]. Where a person is entitled to vote by post as proxy for the elector at any election[7], the elector may not apply for a ballot paper for the purpose of voting in person at the election[8]. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the entry of that elector in any copy of the register, or part of it, provided for a polling station[9].

1 For the meaning of 'elector' for these purposes see para 379 note 7 ante. As to applications for the appointment of a proxy see para 380 ante.

2 For the meaning of 'parliamentary election' see para 9 ante.

3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

5 As to European parliamentary elections see para 224 et seq ante.

6 Representation of the People Act 2000 Sch 4 para 7(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(1). As to the appropriate rules referred to in the text, in relation to a parliamentary or local government election, see para 368 note 2 ante; in relation to a Welsh Assembly election, see para 369 note 2 ante; and, in relation to a European parliamentary election, see para 370 note 2 ante.

7 See para 383 et seq post.

8 Representation of the People Act 2000 Sch 4 para 7(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(2).

The Representation of the People Act 2000 Sch 4 para 7(2) does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of the Representation of the People Act 1983 s 23(1), Sch 1 r 40(1ZC), (1ZE) (as added) (see para 408 post): Representation of the People Act 2000 Sch 4 para 7(10) (added by the Electoral Administration Act 2006 s 38(6)(b)). Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 62 (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 12; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 25.

(c) Voting by Post as Proxy for an Elector

383. Application by person to vote by post as proxy. Where a person applies to the registration officer[1] to vote by post either as proxy at parliamentary[2] or local government elections[3] (or at both) or at Welsh Assembly[4] or European parliamentary elections[5] (whether for an indefinite period or for a particular period specified in his application)[6] or as proxy at a particular such election[7], the registration officer must grant the application if[8]: (1) the registration officer is satisfied that the elector[9] is or will be registered in the relevant register of electors for the election[10]; and (2) there is in force an appointment of the applicant as the elector's proxy to vote for him at elections of the kind in question or, as the case may be, the election concerned[11]; and (3) the application meets the statutory requirements[12].

Such an application[13] must state: (a) the full name of the applicant[14]; (b) the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register[15]; (c) the address to which the ballot paper should be sent[16]; (d) the grounds on which the elector claims to be entitled to an absent vote[17]; and (e) in relation to parliamentary or local government elections only: (i) in the case of a person who is unable to provide a signature, the reasons for his request for waiver of any requirement[18] to provide a signature and the name and address of any person who has assisted him to complete his application[19]; and (ii) where the applicant has, or has applied for, an anonymous entry, that fact[20]. The application must be made in writing and dated[21]. Except in relation to a Welsh Assembly election, such an application which is made for an indefinite period or the period specified in the application must state that it is so made[22] and must specify the election in respect of which it is made[23]. An application which is made for a particular election (other than a Welsh Assembly election) must state that it is so made[24] and must identify the election in question[25].

An application for a parliamentary or a local government election may be combined where the polls fall on the same day[26], and such an application (whether combined or not) may be used in combination with that for an absent vote at a particular European parliamentary election[27].

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision[28]; and where he refuses an application, he must notify the applicant of his decision and give the reason for it[29]. An appeal lies to the county court from any decision of the registration officer disallowing a person's application to vote by post as proxy in any case where the application is not made for a particular election only[30].

1 As to electoral registration officers and the areas for which they act see para 154 et seq ante.
2 For the meaning of 'parliamentary election' see para 9 ante.
3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.
4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
5 As to European parliamentary elections see para 224 et seq ante.
6 Representation of the People Act 2000 Sch 4 para 7(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 7(4)(a). As to applications so made see para 372 ante.
7 Representation of the People Act 2000 Sch 4 para 7(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4)(b). As to applications so made see para 376 ante.
8 Representation of the People Act 2000 Sch 4 para 7(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4). Such an application must be disregarded for the purposes of any particular election if it is received by the registration officer after 5 pm on the

eleventh day before the date of the poll at that election (or the sixth day before such a date in the case of a European parliamentary election): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 6(1) (substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(2). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). As to the computation of time for these purposes see para 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

9 For the meaning of 'elector' for these purposes see para 379 note 7 ante.

10 Representation of the People Act 2000 Sch 4 para 7(5)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(5)(a).

In the case of a parliamentary election, the register referred to is the register of parliamentary electors and, in the case of a local government election, it is the register of local government electors (although an application under the Representation of the People Act 2000 Sch 4 (as amended) may relate to both types of election, in which case the requirement is to be registered in both). In the case of a Welsh Assembly election, the requirement is to be registered in the register of local government electors (as to which see para 160 ante). In the case of a European parliamentary election, the 'register of electors' means any part of: (1) a register of parliamentary or, in the case of peers, local government electors; (2) a register under the Representation of the People Act 1985 s 3 (as substituted and amended) (peers resident outside the United Kingdom registered as European parliamentary electors: see para 116 ante); (3) a register under the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 5(2) (see para 156 ante); and (4) (for the purposes of European parliamentary elections held in the combined region) the Gibraltar register (see para 131 note 2 ante), in force within an electoral region at the time of a European parliamentary election in that region: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 2(1). As to electoral regions established for the purposes of European parliamentary elections (including the combined region) see para 76 ante; as to registration as an elector see para 128 et seq ante; and as to the registers of electors maintained by registration officers see para 156 et seq ante.

11 Representation of the People Act 2000 Sch 4 para 7(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(5)(b). As to the appointment of a proxy see para 380 et seq ante.

12 Representation of the People Act 2000 Sch 4 para 7(5)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(5)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(5)(c).

In the case of a parliamentary or local government election, the application referred to in the text must contain the applicant's signature and date of birth and meet the prescribed requirements: Representation of the People Act 2000 Sch 4 para 7(5)(c) (amended by the Electoral Administration Act 2006 s 14(3)(a), (8)). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)); and, accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended). Where a person has made an application under the Representation of the People Act 2000 Sch 4 para 7(4) (see the text and notes 1–8 supra) prior to 31 December 2006 that has not been determined on or before that date, the registration officer must not grant the application unless the applicant has provided to the registration officer a specimen of his signature and his date of birth: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 3. As to the provisions made for the initial and continuing capture of the personal identifiers of those who are existing absent voters see para 371 ante.

The registration officer may dispense with the requirement under the Representation of the People Act 2000 Sch 4 para 7(5)(c) (as amended) for the applicant to provide a signature if he is satisfied that the applicant is unable to provide a signature because of any disability the applicant has or is unable to provide a signature because the applicant is unable to read or write or is unable to sign in a consistent and distinctive way because of any such disability or inability: Sch 4 para 7(11) (added by the Electoral

Administration Act 2006 s 14(3)(b), (8)). 'Disability', in relation to doing a thing, includes a short term inability to do it: see the Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 76); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2).

In the case of a Welsh Assembly election, the application referred to in the text must meet the requirements of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended).

In the case of a European parliamentary election, the application referred to in the text must meet the requirements of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended).

13 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(a).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b), (c) (reg 51(2)(b) amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b), (c) (Sch 2 para 1(1)(b) amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(b), (c). As to the address to be specified for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended) in relation to Welsh Assembly elections see para 372 note 25 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(d).

In the case of an application to vote by post at parliamentary or local government elections under the Representation of the People Act 2000 Sch 4 para 7(4) (see the text and notes 1–8 supra) where the addresses stated in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(c) (i e the proxy's address and the elector's address for the purposes of reg 51(2)(b) (as amended): see the text and note 15 supra) and reg 51(2)(d) are different, except where an applicant has, or has applied for, an anonymous entry, the application must set out why the applicant's circumstances will be or are likely to be such that he requires the ballot paper to be sent to the address stated in accordance with reg 51(2)(d): reg 51AA(1)–(3) (added by SI 2006/2910). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(2)(e).

18 Ie under the Representation of the People Act 2000 Sch 4 para 7 (as amended).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(f) (added by SI 2006/2910).

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(g) (added by SI 2006/2910).

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

In relation to parliamentary or local government elections, where an application is required to contain a signature and date of birth (see note 12 supra), the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning into his record: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A) (reg 51(3A), (3B) added by SI 2006/2910). This requirement is met by configuring the information as follows: (1) the signature must appear against a background of white unlined paper of at least five centimetres long and two centimetres high (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3A)(a) (as so added)); and (2) the applicant's date of birth must be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y] (reg 51(3A)(b) (as so added)). Where the application contains a request that the registration officer waive the requirement for a signature (see note 12 supra), head (1) supra does not apply: reg 51(3B) (as so

added). The registration officer may satisfy himself: (a) that an application under the Representation of the People Act 2000 Sch 4 (as amended) meets any requirements that it has been signed by the applicant and states his date of birth by referring to any signature and date of birth either previously provided by the applicant to the registration officer or to the returning officer or previously provided by the applicant to the authority referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 35(2)(a) (i e the council which appointed him: see para 157 ante), which the registration officer is authorised to inspect for the purposes of his registration duties (reg 51A(a) (reg 51A added by SI 2006/752; and substituted by SI 2006/2910)); and (b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51A(b) (as so added and substituted)).

At a Welsh Assembly election, the application must be sent and delivered in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 143 (see para 372 note 31 ante). The registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1A (added by SI 2006/884).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(a).

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(4)(b).

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(a).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(b).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5).

27 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(7).

28 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(1) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(1) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1). At a parliamentary or Welsh Assembly where the registration officer is not the acting returning officer for any constituency (or at a European parliamentary election where the registration officer is not the local returning officer for any local counting area) or part of such area in the area for which he is the registration officer, he must send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(5). For the meaning of 'local counting area' see para 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante; and as to notification see para 372 note 35 ante.

29 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

30 See para 189 et seq ante.

384. Record of persons entitled to vote by post as proxy. The registration officer[1] must keep a record of those whose applications to vote by post as proxy at parliamentary[2] or local government elections[3] (or at both) or at Welsh Assembly[4] or European parliamentary elections[5] (whether for an indefinite period or for a particular period specified in the application)[6] have been granted showing[7]: (1) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period)[8]; (2) where the applications were in respect of parliamentary or local government elections, whether they were in respect of parliamentary elections or local government elections or both[9]; and (3) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent[10]. The registration officer at a Welsh Assembly or European parliamentary election must make a copy of the

records so kept available for inspection at his office[11] and, in relation to a Welsh Assembly election, any person may make a copy (whether handwritten or by other means) of the whole or any part of them[12].

A person who remains on the record of persons entitled to vote by post as proxy at parliamentary or local government elections either for an indefinite period or for a particular period[13] may, at any time, provide the registration officer with a fresh signature[14]; and anything required or authorised to be done for the purposes of any enactment in relation to a signature required to be provided in pursuance of absent voting in Great Britain[15] must be done in relation to a signature so provided instead of in relation to a signature provided on any earlier occasion[16]. Regulations may make provision as to circumstances in which a registration officer may require a person who remains on the record of persons entitled to vote by post as proxy either for an indefinite period or for a particular period[17] to provide a fresh signature[18] and as to the consequences of a person refusing or failing to comply with a requirement to provide a fresh signature[19].

The registration officer must remove a person from the record so kept[20]: (a) if he applies to the registration officer to be removed[21], (b) if the elector[22] ceases to be registered in the appropriate register or registers (as the case may be)[23]; (c) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed)[24]; or (d) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires[25]. Where a person is removed from the record under any of heads (a) to (d) above, the registration officer must, where practicable, notify him of this and the reason for it[26].

The registration officer must also keep a record in relation to those whose applications to vote by post either as proxy at parliamentary elections, at local government elections or at both (whether for an indefinite period or for a particular period specified in the application)[27], or at a particular parliamentary or local government election[28], have been granted showing their dates of birth[29] and, except in cases where the registration officer[30] has dispensed with the requirement to provide a signature, their signatures[31]. The record so kept must be retained by the registration officer for the prescribed period[32]. The registration officer must either provide a copy of the information contained in records so kept by him[33] to the returning officer for an election in relation to electors at the election[34] or give the returning officer access to such information[35]. Information contained in such records may be disclosed by a registration officer (subject to any prescribed conditions) to any other registration officer if he thinks that to do so will assist the other registration officer in the performance of his duties[36], or to any person exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts[37] or to such other persons for such other purposes relating to elections as may be prescribed[38].

1 As to electoral registration officers and the areas for which they act see para 154 et seq ante.
2 For the meaning of 'parliamentary election' see para 9 ante.
3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.
4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
5 As to European parliamentary elections see para 224 et seq ante.
6 Ie a record of those whose applications have been granted, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(4)(a) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(a) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4)(a) (whichever is appropriate) (see para 383 ante).
7 Representation of the People Act 2000 Sch 4 para 7(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(7).

8 Representation of the People Act 2000 Sch 4 para 7(6)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6)(a).

9 Representation of the People Act 2000 Sch 4 para 7(6)(a)(i).

10 Representation of the People Act 2000 Sch 4 para 7(6)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6)(b).

11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 11(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(2). In the case of records relating to a Welsh Assembly election, the records may be in such form as the registration officer thinks fit: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(1).

12 Ibid art 144(2).

13 Ie the record kept under the Representation of the People Act 2000 Sch 4 para 7(6) (see the text and notes 1–10 supra).

14 Ibid Sch 4 para 7A(1) (Sch 4 paras 7A–7D added by the Electoral Administration Act 2006 s 14(4), (8)).

15 Ie in pursuance of the Representation of the People Act 2000 Sch 4 (as amended).

16 Ibid Sch 4 para 7A(2) (as added: see note 14 supra).

17 Ie the record kept under ibid Sch 4 para 7(6) (see the text and notes 1–10 supra).

18 Ibid Sch 4 para 7B(a) (as added: see note 14 supra).

19 Ibid Sch 4 para 7B(b) (as added: see note 14 supra).

20 Ibid Sch 4 para 7(9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9).

21 Representation of the People Act 2000 Sch 4 para 7(9)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9)(a). Such an application by a proxy to be removed from the record must be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election (or the sixth day before that date in the case of a Welsh Assembly election): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(3)(b), (ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(5). Where a registration officer disregards an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante. As to the computation of time for these purposes see para 372 note 6 ante. As to notification see para 372 note 35 ante.

22 For the meaning of 'elector' for these purposes see para 379 note 7 ante.

23 Representation of the People Act 2000 Sch 4 para 7(9)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9)(b). The text refers to registration as mentioned, in relation to a parliamentary or local government election, in the Representation of the People Act 2000 Sch 4 para 7(5)(a) or, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(5)(a) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(5)(a) (whichever is appropriate) (see para 383 ante).

24 Representation of the People Act 2000 Sch 4 para 7(9)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9)(c).

25 Representation of the People Act 2000 Sch 4 para 7(9)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(9)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(9)(d).

26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4B) (added by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4B) (added by SI 2006/884). As to notification see para 372 note 35 ante.
27 Ie a record of those whose applications under the Representation of the People Act 2000 Sch 4 para 7(4)(a) (see para 383 ante) have been granted.
28 Ie a record of those whose applications under ibid Sch 4 para 7(4)(b) (see para 383 ante) have been granted.
29 Ibid Sch 4 para 7(12)(a) (Sch 4 paras 7(12)–(13) added by the Electoral Administration Act 2006 s 14(3)(b), (8)).
30 Ie in pursuance of the Representation of the People Act 2000 Sch 4 para 7(11) (as added) (see para 383 ante).
31 Ibid Sch 4 para 7(12)(b) (as added: see note 29 supra).
32 Ibid Sch 4 para 7(13) (as added: see note 29 supra). 'Prescribed' means prescribed by regulations: see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). As to the retention of the records referred to in the text see para 503 et seq post.
33 Ie in pursuance of ibid Sch 4 para 7(12) (as added) (see the text and notes 27–31 supra).
34 Ibid Sch 4 para 7C(a) (as added: see note 14 supra).
35 Ibid Sch 4 para 7C(b) (as added: see note 14 supra).
36 Ibid Sch 4 para 7D(a) (as added: see note 14 supra).
37 Ibid Sch 4 para 7D(b) (as added: see note 14 supra). For the meaning of 'the Representation of the People Acts' see para 3 note 1 ante.
38 Representation of the People Act 2000 Sch 4 para 7D(c) (as added: see note 14 supra). As to the prescribed requirements see note 32 supra.

385. Application in respect of a particular election by a proxy entitled to vote by post for an indefinite period or for a particular period. Where a person who is included in the record kept of those entitled to vote by post as proxy either for an indefinite period or for a particular period[1] in respect of parliamentary[2], local government[3], Welsh Assembly[4] or European parliamentary elections[5], applies to the registration officer[6] for his ballot paper[7] in relation to a particular such election to be sent to a different address from that shown in the record, the registration officer must grant the application if it meets the statutory requirements[8].

Such an application[9] must state: (1) the full name of the applicant[10]; and (2) the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register[11]. Except in relation to a European parliamentary election, such an application must also set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to a different address from that shown in the record[12]. An application must identify the election in question[13] and when it is made for a particular parliamentary, local government or European parliamentary election, it must state that it is so made[14]. The application must be made in writing and dated[15].

An application for a parliamentary or a local government election may be combined where the polls fall on the same day[16], and such an application (whether combined or not) may be used in combination with that for an absent vote at a particular European parliamentary election[17].

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision[18]; and where he refuses an application, he must notify the applicant of his decision[19]. An appeal does not lie from any decision of the registration officer disallowing a person's application to vote by post as proxy in any case where the application is made for a particular election only[20].

1 Ie a record kept, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 s 12, Sch 4 para 7(6) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6) or, in relation to

a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6) (whichever is appropriate) (see para 384 ante).

2 For the meaning of 'parliamentary election' see para 9 ante.

3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2). See also para 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

5 As to European parliamentary elections see para 224 et seq ante.

6 As to electoral registration officers and the areas for which they act see para 154 et seq ante.

7 Or ballot papers, in the case of an ordinary Welsh Assembly election where a person is entitled to give two votes: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(7). As to ordinary general elections to the National Assembly for Wales see para 220 et seq ante.

8 Representation of the People Act 2000 Sch 4 para 7(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(7) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(7). The text refers to the requirements set out, in the case of a parliamentary or local government election, in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended) or, in the case of a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 (as amended) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended) (whichever is appropriate). For the purposes of the Representation of the People Act 2000 Sch 4 (as amended), the requirements are as prescribed; and 'prescribed' means prescribed by regulations (see the Representation of the People Act 1983 s 202(1); applied by virtue of the Representation of the People Act 2000 Sch 4 para 1(2)). Such an application must be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the election for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(4) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 6(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 19(4). Where a registration officer disregards such an application for the purposes of any particular election, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(4). At a Welsh Assembly election, the officer must date such notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4). As to the computation of time for these purposes see para 372 note 6 ante. As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

9 Applications relating to absent voting must comply with such requirements as are relevant to the application: in relation to a parliamentary or local government election, see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1); in relation to a Welsh Assembly election, see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(5); and in relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1)(a).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(b), (c) (reg 51(2)(b) amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b), (c) (Sch 2 para 1(1)(b) amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(1)(b), (c). As to the address to be specified for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1)(b) (as amended) in relation to Welsh Assembly elections see para 372 note 25 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51B(1) (added by SI 2006/752; and renumbered by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1B (added by SI 2006/884). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51B (as added and amended) does not apply where an applicant has, or has applied for, an anonymous entry: reg 51B(2) (added by SI 2006/2910). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(b).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(5)(a).

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (substituted by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3). At a Welsh Assembly or European parliamentary election, the application must also be signed by the applicant: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 1(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 14(3).

At a Welsh Assembly election, the application must be sent and delivered in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 143 (see para 372 note 31 ante).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5).

17 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4(7).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4A) (added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4A) (added by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(1). At a parliamentary or Welsh Assembly where the registration officer is not the acting returning officer for any constituency (or at a European parliamentary election where the registration officer is not the local returning officer for any local counting area) or part of such area in the area for which he is the registration officer, he must send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(5). For the meaning of 'local counting area' see para 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante; and as to notification see para 372 note 35 ante.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). Except in the case of a Welsh Assembly election, the reason for the decision must also be given: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 20(3). At a Welsh Assembly election, the officer must date the notification: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 7(4).

20 See para 189 et seq ante.

386. Proxy postal voters list. The registration officer[1] must, in respect of each parliamentary[2], local government[3], Welsh Assembly[4] or European parliamentary election[5], keep a special list (the 'proxy postal voters list')[6]: (1) of those who are for the time being included in the record kept of persons entitled to vote by post as proxy either for an indefinite period or for a particular period[7], together with the addresses provided by them in their applications[8] as the addresses to which their ballot papers are to be sent[9]; and (2) of those whose applications to vote by post as proxy at a particular election[10] have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent[11].

Any person entitled to be supplied with copies of the full register[12] is also a person entitled[13] to request that the registration officer supply free of charge the relevant part[14] of a copy of any of the following information which he keeps[15], namely: (a) the current version of the information which would, in the event of a particular parliamentary or local government election, be included in the proxy postal voters list[16]; and (b) the current or final version of the proxy postal voters list[17]. The registration officer must supply a current copy of the information so requested as soon as practicable after receipt of a request that is duly made[18]; and, as soon as practicable after 5 pm on the sixth day

before the day of the poll[19], he must[20]: (i) make a copy of the proxy postal voters list available for inspection at his office, in response to a request that has been duly made[21]; and (ii) at a parliamentary election, if he is not the acting returning officer for any constituency or part of a constituency in the area for which he is the registration officer, send to that officer a copy of the list[22].

As soon as practicable after the sixth day[23] before the day of the poll[24] at a Welsh Assembly or European parliamentary election, the registration officer must publish the list of postal proxy voters by making a copy of it available for inspection at his office[25]. The registration officer at a Welsh Assembly election must, on request, supply free of charge a copy of the list to each candidate at a constituency election or his election agent[26] or, in the case of a regional election[27], to each individual candidate[28] or group of party list candidates[29] (or to his or their election agent)[30]. The registration officer at a European parliamentary election must, on request, supply free of charge a copy of the list of postal proxy voters to the election agent of each registered party[31] standing nominated and each individual candidate[32] or his election agent[33].

1 As to electoral registration officers and the areas for which they act see para 154 et seq ante.
2 For the meaning of 'parliamentary election' see para 9 ante.
3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.
4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
5 As to European parliamentary elections see para 224 et seq ante.
6 Representation of the People Act 2000 Sch 4 para 7(8) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 Pt 7 para 137(1), (7)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8).

The list of persons referred to in the text which is kept in relation to a parliamentary or local government election pursuant to the Representation of the People Act 2000 Sch 4 para 7(8) (i e the list of persons whose applications to vote by post as proxy have been granted) is known as the 'proxy postal voters list': Representation of the People Act 1983 s 202(1) (definition added by the Electoral Administration Act 2006 Sch 1 Pt 7 paras 104, 128(1), (3)); Representation of the People Act 2000 Sch 4 para 7(8) (as so amended). In the case of a person who has an anonymous entry in a register, the list referred to in the text must contain only the person's electoral number and the period for which the anonymous entry has effect: Representation of the People Act 2000 Sch 4 para 7(8A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 19, 23). For the meaning of 'electoral number' see para 160 ante; and for the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

Any list so kept as mentioned in the text which relates to a Welsh Assembly election may be in such form as the registration officer thinks fit (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 11(1)); but where electors are entitled to give two votes at an ordinary election in an Assembly constituency, only one list is to be kept and that list has effect in relation to both elections (art 12(8) proviso). Where a National Assembly for Wales constituency is not coterminous with, or wholly situated in, a county or county borough: (1) the registration officer for any part of the Assembly constituency must, if he is not the returning officer for the constituency, consult him concerning the form of so much of the list of postal proxies (see the text and notes 7–11 infra) as relates to the constituency in order to ensure that, so far as practicable, it is in a form similar to that in use elsewhere in the constituency; and (2) if the registration officer for any part of the Assembly constituency at an Assembly election is not the returning officer for the constituency, he must forthwith supply to the constituency returning officer a copy of the compiled list of postal proxies on completion of the compilation of them: art 139. For the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see para 3 note 1 ante; and for the meaning of 'constituency returning officer' see para 18 note 2 ante. As to counties and county boroughs in Wales see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq. As to ordinary general elections to the National Assembly for Wales see para 220 et seq ante.

At a European parliamentary election, the registration officer must, forthwith on completion of the compilation of the list of postal proxies, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to that constituency: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8). For the meaning of 'local counting area' see para 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.

7 Ie a record kept, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(6) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6) (whichever is appropriate) (see para 384 ante).

8 Ie applications made, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(4)(a) or, as the case may be, under Sch 4 para 7(7) or applications made, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(a) or, as the case may be, under art 12(7) or applications made, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4)(a) or, as the case may be, under Sch 7(7) (whichever is appropriate) (see paras 383, 385 ante).

9 Representation of the People Act 2000 Sch 4 para 7(8)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8)(a). In the case of a Welsh Assembly election, in the list kept of proxies who are entitled to vote by post, the name of the proxy, together with the address to which his ballot paper (or, where a person is entitled to give two votes at an ordinary election, ballot papers) must be sent is to be placed on the right hand side of the elector's name and electoral number: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(4). As to the meaning of 'electoral number' for this purpose see para 378 note 9 ante.

10 Ie a record of those whose applications have been granted, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(4)(b) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(4)(b) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(4)(b) (whichever is appropriate) (see para 383 ante).

11 Representation of the People Act 2000 Sch 4 para 7(8)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8)(b). In relation to a Welsh Assembly election see note 9 supra.

12 Ie in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see para 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see para 182 ante), reg 106 (as added) (supply of full register to registered political parties: see para 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see para 182 ante). For the meaning of 'full register' see para 166 note 2 ante.

13 Ie subject to ibid reg 61 (as substituted) and reg 61A (as added) (see note 15 infra).

14 Ie within the meaning of the regulations specified in note 12 supra.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(1) (reg 61 substituted by SI 2006/2910). A request such as is mentioned in the text must be made in writing and must specify the information (or the relevant parts of the information) requested, whether the request is made only in respect of the current list or whether it includes a request for the supply of any final list and whether a printed copy of the records or list is requested or a copy in data form: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(2) (as so substituted). For the meaning of 'data form' see para 177 note 11 ante. Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see para 156 ante), any duty on a registration officer to supply a copy under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61 (as substituted) imposes only a duty to provide that information in the form in which he holds it: reg 61(15) (as so substituted). As to the Secretary of State see para 2 ante.

A person who obtains any information under reg 61 (as substituted) may use it only for the permitted purposes specified in reg 61A (as added), and any restrictions specified in reg 61A (as added), or which would apply to the use of the full register under whichever of reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see para 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see para 182 ante), reg 106 (as added) (supply of full register to registered political parties: see para 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see para 182 ante) entitled that person to obtain that information, apply to such use: reg 61(3) (as so substituted). Any person who has obtained or is entitled to obtain a copy of information covered by reg 61(1) (as substituted) (see heads (a) and (b) in the text) may supply a copy of the information to a processor for the purpose of processing the information, or procure that a processor processes and supplies to him any copy of the information which the processor has obtained under reg 61 (as substituted), for use in respect of the purposes for which that person is entitled to obtain such information: reg 61(8) (as so substituted). The processor may not disclose the information so supplied

except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (reg 92 added by SI 2002/1871); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(9) (as so substituted). As to references to an employee of any person who has access to a copy of the full register see para 177 note 6 ante; and for the meaning of 'processor' see para 177 note 11 ante (definitions applied by virtue of reg 61(9) (as substituted)).

The restrictions on the supply, disclosure and use of the full register in reg 94 (as added) (restrictions on supply of full register and disclosure of information from it by the registration officer and his staff: see para 176 ante) and reg 96 (as added and amended) (restrictions on use of full register or information contained in it: see para 176 ante) apply to information covered by heads (a) and (b) in the text as they apply to the full register, except that the permitted purpose (see para 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) para 551) or electoral purposes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61A (added by SI 2006/2910).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(1)(a) (as substituted: see note 15 supra). The registration officer must ensure that where he supplies or discloses information covered by head (a) in the text, in accordance with reg 61 (as substituted), he does not supply or disclose any record relating either to a person who has an anonymous entry or to the proxy of a person who has an anonymous entry: reg 61(17), (18) (as so substituted). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

17 Ibid reg 61(1)(b) (as substituted: see note 15 supra).

18 Ibid reg 61(4) (as substituted: see note 15 supra). For these purposes, a 'current copy' of records or lists is a copy of the records or lists as kept by the registration officer at 9 am on the date it is supplied: reg 61(16)(a) (as so substituted).

19 For these purposes, any period of days must be calculated in accordance with ibid reg 56(6) (as amended) and reg 56(7) (see para 372 note 6 ante): reg 61(16)(b) (as substituted: see note 15 supra). As to the date of the poll at a parliamentary general election or by-election see para 202 ante; and as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante.

20 Ibid reg 61(6) (as substituted: see note 15 supra).

21 Ibid reg 61(6)(a) (as substituted: see note 15 supra). The text refers to information made available for inspection in accordance with reg 61(10)–(15) (as substituted). Any person is entitled to request that the registration officer make available for inspection a copy of any of the information specified in heads (a) and (b) in the text: reg 61(10) (as so substituted). Such a request must be made in writing and must specify the information (or relevant parts of the information) requested, whether the request is made only in respect of the current lists or whether it includes a request for the inspection of any final list, who will inspect the information, the date on which they wish to inspect the information and whether they would prefer to inspect the information in a printed or data form: reg 61(11) (as so substituted). The registration officer must make a copy of the information available for inspection under supervision as soon as practicable after the date of receipt of a request that has been duly made: reg 61(12) (as so substituted). Where inspection takes place by providing a copy of the information on a computer screen or otherwise in data form, the registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of that copy by electronic or any other means: reg 61(13) (as so substituted). A person who inspects a copy of the information, whether a printed copy or in data form, may not make copies of any part of it, or record any particulars in it, otherwise than by means of handwritten notes: reg 61(14) (as so substituted). Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see para 156 ante), any duty on a registration officer to make information available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61 (as substituted) imposes only a duty to provide that information in the form in which he holds it: reg 61(15) (as so substituted). The provision allowing copying that usually applies where a document is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) does not apply to copies of information covered by heads (a) and (b) in the text: reg 7(6) (added by SI 2006/2910).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(6)(b) (as substituted: see note 15 supra).

23 As to the computation of time for these purposes see para 372 note 6 ante.

24 As to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(3)(a). At a European parliamentary election, if the registration officer is not the local returning officer for any local counting area or part of such area in the area for which he is the registration officer, he must send to that officer a copy of the lists referred to in the text: Sch 2 para 24(3)(b). In relation to a Welsh Assembly election, the registration officer must continue to make a copy of the list so available until the date of the poll (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(6)); and any person may make a copy (whether handwritten or by other means) of the whole or any part of it (art 144(2)).

26 Ibid Sch 2 para 11(7)(a). If a request is made as mentioned in the text before any issue of postal ballot papers, the registration officer must before that issue supply a copy of those lists or so much of them as relates to that issue: Sch 2 para 11(8). For the meaning of 'candidate' generally see para 237 ante; and for the meaning of 'constituency election' in relation to a Welsh Assembly election see para 3 note 1 ante. As to the appointment of election agents see para 238 et seq ante.

27 For the meaning of 'regional election', in relation to a Welsh Assembly election, see para 3 note 1 ante.

28 For the meaning of 'individual candidate', in relation to a Welsh Assembly election, see para 237 note 23 ante.

29 For the meaning of references to a group of party list candidates for this purpose see para 237 note 23 ante.

30 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 11(7)(b). See note 26 supra.

31 For the meaning of 'registered party' for these purposes see para 237 note 30 ante. As to the submission by a registered party of lists of candidates to be members of the European parliament ('MEPs') see para 235 ante.

32 For the meaning of 'individual candidate', in relation to a European parliamentary election, see para 237 note 32 ante.

33 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 24(1).

387. Voting by post as proxy. If a person is entitled to vote as proxy for an elector[1] at a parliamentary[2], local government[3], Welsh Assembly[4] or European parliamentary election[5] (by being included in the relevant list[6] in respect of that election) he may vote by post[7]. Where a person is entitled to vote by post as proxy for an elector at such an election, the elector may not apply for a ballot paper for the purpose of voting in person at the election[8].

1 For the meaning of 'elector' for these purposes see para 379 note 7 ante. As to applications to vote by post as a proxy see para 383 et seq ante.

2 For the meaning of 'parliamentary election' see para 9 ante.

3 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1(2). See also para 368 note 1 ante.

4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

5 As to European parliamentary elections see para 224 et seq ante.

6 Ie the list kept, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(8) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8) (whichever is appropriate) (see para 386 ante).

7 Representation of the People Act 2000 Sch 4 para 7(1), (3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(1), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(1), (3).

8 Representation of the People Act 2000 Sch 4 para 7(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(2).

The Representation of the People Act 2000 Sch 4 para 7(2) does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of the Representation of the People Act 1983 s 23(1), Sch 1 r 40(1ZC), (1ZE) (as added) (see para 408 post): Representation of the People Act 2000 Sch 4 para 7(10) (added by the Electoral Administration Act 2006 s 38(6)(b)). Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 62 (as amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 12; the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 25; and para 382 ante.

(v) Rules for Conduct of Elections

388. Rules for the conduct of elections. The proceedings at a parliamentary election[1] must be conducted in accordance with the parliamentary elections rules[2]. These rules are applied[3] for the purpose of elections of councillors for local government areas[4] in England and Wales[5], which are also conducted in accordance with rules made by the Secretary of State[6]. As regards the Greater London Authority[7], Authority elections[8] and the return of London members of the London Assembly otherwise than at an election[9] must be conducted in accordance with rules so made[10]. The Secretary of State must also make provision as to the conduct of elections for the return of elected mayors or elected executive members[11]; and an election for the return of an elected mayor must be conducted in accordance with the mayoral elections rules so made[12].

In relation to elections to the National Assembly for Wales[13], the Secretary of State may by order make provision as to the conduct of elections for the return of Assembly members[14]; and the proceedings at Assembly elections[15] and the return of Assembly members must be conducted in accordance with the rules so provided[16].

The Secretary of State may by regulations make provision as to the conduct of elections to the European Parliament[17]; and proceedings at a European parliamentary election must be conducted in accordance with the European parliamentary elections rules[18].

It is the general duty of returning officers at an election to do all such acts and things as may be necessary for effectively conducting the election in accordance with these rules[19] but no parliamentary election may be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the elections rules if the election was so conducted as to be substantially in accordance with the law as to elections and the act or omission did not affect its result[20].

1 For the meaning of 'parliamentary election' see para 9 ante. As to parliamentary elections see para 196 et seq ante.

2 Representation of the People Act 1983 s 23(1). For these purposes, 'parliamentary elections rules' means the parliamentary elections rules that are set out in Sch 1 (as amended): see s 202(1).

3 Ibid s 36(2). The parliamentary elections rules must be applied subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State: s 36(2). See further note 6 infra. As to the Secretary of State see para 2 ante. As to the rules for combining the poll at such an election with that at another election or referendum see para 21 et seq ante.

4 For the meaning of 'local government area' see para 18 note 2 ante. As to the election of councillors for local government principal areas see para 204 et seq ante; as to the election of councillors for parish or community councils see para 207 et seq ante.

5 For the meanings of 'England' and 'Wales' see para 13 note 1 ante.

6 Representation of the People Act 1983 s 36(1).

In the application of the parliamentary elections rules to the election of councillors of the council of a principal area where the poll at that election is not taken together with the poll at another election, adaptations, alterations and exceptions must be made to those rules so that the election is conducted in accordance with the rules set out in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 (see para 218 et seq ante): r 3. For these purposes, 'principal area' means, in England, a county, district or London borough and, in Wales, a county or county borough: r 2(1). As to such areas and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq; LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq.

In the application of the parliamentary elections rules to the election of councillors of the council of a parish or community where the poll at that election is not taken together with the poll at another election, adaptations, alterations and exceptions must be made to those rules so that the election is conducted in accordance with the rules set out in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 (see para 218 et seq ante): r 3. A poll consequent on a parish meeting is taken by ballot in accordance with rules made by the Secretary of State; and the provisions of the rules with respect to the elections of parish councillors under the Representation of the People Act 1983 s 36 (as amended) and of the enactments mentioned in s 187(1) (as amended) (i e s 60, s 62A (as added) and s 66 (as amended), Pt II (ss 67–119) (as amended), Pt III (ss 120–186) (as amended), and s 189), subject to any adaptations, alterations or exceptions made by the first-mentioned rules, apply in the case of a poll so taken as if it were a poll for the election of parish councillors: see the Local Government Act 1972 s 99, Sch 12 para 18(5), Sch 12 para 34(5); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 258. In the application of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, by virtue of the Interpretation Act s 17(2)(b), to a poll consequent on a parish or community meeting, adaptations, alterations and exceptions must be made to those rules so that the poll is conducted in accordance with the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule (as amended) (see para 214 et seq ante): r 5. In the application of those provisions of the Representation of the People Act 1983 mentioned in s 187(1) (as amended), references to the proper officer of the authority for which the election was held must be taken as references to the returning officer (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(b)); and references to an election under the local government Act are deemed to include a reference to a poll consequent on a parish or community meeting (r 6(g)). For the meaning of 'election under the local government Act' see para 10 note 2 ante. As to other modifications that apply in this case see r 6(c)–(f). As to a poll consequent on a parish or community meeting taken on a question other than any appointment to office see para 558 et seq post. As to parishes and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq; and as to communities and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.

7 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq.

8 Representation of the People Act 1983 s 36(2A)(a) (s 36(2A), (2B) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 4(1), (2)). For the meaning of 'Authority election' see para 10 ante.

9 Representation of the People Act 1983 s 36(2A)(b) (as added: see note 8 supra). For the meaning of 'London member' (of the London Assembly) see para 10 note 5 ante. As to filling vacancies in the offices of London members of the London Assembly see para 211 et seq ante.

10 Ibid s 36(2A) (as added: see note 8 supra). The rules so made need not comply with the requirements of the Representation of the People Act 1983 s 36(2) (see the text and note 3 supra) (s 36(2A) (as so added)); and the provision that may be made by such rules as regards lists of candidates submitted under the Greater London Authority Act 1999 s 4(6), Sch 2 para 5(2) (election of London members of the London Assembly: see para 233 ante) includes provision for or in connection with the inclusion, withdrawal, addition or removal of persons and cases where a person included in such a list is or becomes, or seeks to become, an individual candidate to be a London member of the London Assembly (Representation of the People Act 1983 s 36(2B) (as so added)). As to the rules so made under s 36(2) (as amended) and s 36(2A), (2B) (as added) see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427. For these purposes, the 'constituency members election rules' means the rules set out in r 3(1), Sch 1 (as amended); the 'London members election rules' means the rules in r 3(2), Sch 2 (as amended); the 'mayoral election rules' means the rules in r 3(3), Sch 3 (as amended); and the 'ordinary elections rules' means the rules in r 3, Sch 4: r 2(1). To avoid confusion, in this work the mayoral elections rules are referred to as the London mayoral elections rules: cf the 'local authority mayoral elections rules'; and note 12 infra. An election held under one or more of the constituency members election rules, the London members election rules, the mayoral election rules and the ordinary elections rules is known as a 'GLA election': r 2(1).

The constituency members election rules have effect for the purposes of the election of constituency members of the London Assembly, whether at an ordinary election or in the circumstances mentioned in the Greater London Authority Act 1999 s 10 (filling a vacancy in an Assembly constituency: see para 211 ante); but where the election is an ordinary election, those rules have effect subject to the ordinary elections rules: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1). The London members election rules, with the exception of Pt VII (rr 54–58) (list candidates and the filling of vacancies: see para 211 ante), have effect for the purposes of the allocation of seats for London members of the London Assembly at any ordinary election; and Pt VII has effect for the purposes of the Greater London Authority Act 1999 s 11 (filling a vacancy among the London members: see para 211 ante); but where the election is an ordinary election, those rules have effect subject to the ordinary elections rules: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2). The mayoral election rules have effect for the purposes of: the election of the Mayor of London; and any election under the Greater

London Authority Act 1999 s 16(2) (filling a vacancy in the office of Mayor: see para 211 ante), but where the election is an ordinary election, those rules have effect subject to the ordinary elections rules: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3). Where some or all of the votes cast at an ordinary election or an election under the Greater London Authority Act 1999 s 16(2) are to be counted by electronic means, the constituency members election rules, the London members election rules and the mayoral election rules have effect subject to the modifications set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 6(1), Sch 6: r 6(1). The rules are also modified where an election for the return of the Mayor of London or for the return of an Assembly member is taken together with the poll at a parliamentary election, European parliamentary election or local government election (other than a GLA election) under the Representation of the People Act 1985 s 15(1), (2) (see para 21 et seq ante) or the poll at a local authority mayoral election or referendum in accordance with regulations made under the Local Government Act 2000 ss 44–45, 105 (as amended) (see the text and notes 11–12 infra): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 8 (substituted by SI 2004/227). As to the rules so modified see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3) (substituted by r 8 (as so substituted)), and Sch 8 (constituency members election rules where polls are combined), Sch 9 (London members election rules where polls are combined), Sch 10 (mayoral election rules where polls are combined), Sch 11 (electronic counting of votes where polls are combined); and para 22 et seq ante. For the meaning of 'constituency member' (of the London Assembly) see para 10 note 6 ante. As to ordinary elections of the Mayor of London and constituency members of the London Assembly see para 206 et seq ante. As to party lists of candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) para 98; and as to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) para 99.

11 See the Local Government Act 2000 s 44(1); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 227. For the meanings of 'elected executive member' and 'elected mayor' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 227. As to the regulations so made see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185. At the date at which this volume states the law, no regulations had been made in relation to the return of executive members in England and Wales. As to the rules for combining polls at such an election with that at another election or referendum see para 26 ante.

12 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1). For these purposes, 'mayoral election' means an election for the return of an elected mayor; and 'mayoral elections rules' means the rules that are set out in Sch 1 (as amended): reg 2(1). To avoid confusion, in this work these rules are referred to as the 'local authority mayoral elections rules': cf the 'London mayoral elections rules'; and note 10 supra. The Representation of the People Act 1983, the Representation of the People Act 1985, the Representation of the People Act 2000, the Political Parties, Elections and Referendums Act 2000, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) and the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004, SI 2004/294, have effect, in relation to a mayoral election in England, as they have effect in relation to an election of councillors for any county electoral division or district or London borough ward and, in relation to a mayoral election in Wales, as they have effect in relation to an election of councillors for any county electoral division or county borough ward, subject to the modifications set out in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 2: reg 3(2). However, for the purposes of the Representation of the People Act 2000 s 44(4), the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (legal proceedings: see para 759 et seq post) has effect in relation to the questioning of an election for the return of an elected mayor as it has effect in relation to the questioning of an election under the local government Act: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 6; and para 761 post. As to the establishment of electoral areas for the purpose of local government elections in England and Wales see para 73 ante; as to the election of councillors for local government principal areas see para 204 et seq ante. As to elections for the return of a local authority mayor see para 205 et seq ante.

13 As to ordinary general elections to the National Assembly for Wales see para 220 et seq ante.

14 See the Government of Wales Act 2006 s 13(1); and para 12 ante. The provisions of the Government of Wales Act 2006 are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date see the Government of Wales Act 1998 s 11(1). For the meaning of 'Assembly member' in the context of Welsh Assembly elections see para 12 ante. As to the rules for combining polls at such an election with that at another election or referendum see para 28 ante.

15 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1). The text refers to the rules provided under art 16(1), Sch 5 (as amended).

17 See the European Parliamentary Elections Act 2002 s 7(1); and para 13 ante. As to European parliamentary elections see para 224 et seq ante. As to the rules for combining polls at such an election with that at another election or referendum see para 28 ante.
18 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1). For these purposes, 'European parliamentary elections rules' means the rules in reg 9(1), Sch 1 (as amended): reg 2(1).
19 As to the designation and appointment of returning officers generally see para 355 et seq ante.
20 See para 355 et seq ante.

(vi) Contested Elections

A. IN GENERAL

389. Method of election. At a parliamentary[1] or Welsh Assembly constituency election[2], if the statement of persons nominated[3] shows more than one person standing nominated, a poll must be taken in accordance with the appropriate election rules[4]. A poll must be taken in accordance with the appropriate rules[5] at a local government election[6] if the number of persons remaining validly nominated for the electoral area[7] or London Assembly constituency[8] after any withdrawals under the rules exceeds the number of councillors or London Assembly constituency members to be elected[9]. If the number of candidates remaining at a poll consequent on a parish meeting on a question involving appointment to office, after any withdrawals, exceeds the number of persons to be elected, the poll must be taken[10].

If the number of persons remaining validly nominated at an election for the return of London members of the London Assembly or at a Welsh Assembly regional election[11] or at a European parliamentary election[12], after any withdrawals under the appropriate rules[13], exceeds the number of seats available for allocation, then, unless all of those persons are named on the same party list[14], a poll must be taken in accordance with the rules[15].

If, after any withdrawals under the appropriate rules at a local authority or London mayoral election[16], two or more candidates remain validly nominated, a poll must be taken in accordance with the rules[17].

If the number of persons remaining validly nominated after any withdrawals under the appropriate rules does not exceed the number of offices available to be filled in the election, such person or persons must be declared to be elected in accordance with the appropriate rules[18].

1 For the meaning of 'parliamentary election' see para 9 ante. As to parliamentary elections see para 196 et seq ante.
2 For the meaning of 'constituency election' in the context of Welsh Assembly elections see para 3 note 1 ante.
3 As to the statement of persons nominated see para 272 ante.
4 Representation of the People Act 1983 s 23(1), Sch 1 r 17(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 20(a). The text refers to the rules set out, in relation to a parliamentary election, in the Representation of the People Act 1983 Sch 1 Pt III rr 18–49 (as amended) or, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Pt III paras 22–56 (see para 390 et seq post). As to the appropriate rules for use in parliamentary and Welsh Assembly constituency elections see para 388 ante. As to uncontested elections see para 477 post.
5 As to the appropriate rules for use in local government elections see para 388 ante.
6 Ie excluding an election for the return of London members of the London Assembly (as to which see the text and notes 11–15 infra) or an election for the Mayor of London (as to which see the text and notes 16–17 infra). For the meanings of 'local government election' and 'London member' (of the London Assembly) see para 10 ante. As to elections for the return of London members of the London Assembly and the London Mayor see para 206 et seq ante.
7 For the meaning of 'electoral area' see para 10 ante.
8 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 ante.

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 13(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 14(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 14(1). In relation to local government elections for principal areas, the text refers to the rules in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Pt 3 rr 15–49; in relation to local government elections for parishes and communities, the text refers to the rules in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Pt 3 rr 15–49; and, in relation to an election for the return of constituency members of the London Assembly, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 Pt IV rr 14–44 (as amended) (see para 390 et seq post). At an election for the return of constituency members of the London Assembly, a contested election must be held if the number of persons remaining validly nominated for the constituency exceeds one: Sch 1 r 13(1). For the meaning of 'constituency member' in this context see para 10 note 6 ante. As to the election of councillors for local government principal areas see para 204 et seq ante; as to ordinary elections of constituency members of the London Assembly see para 206 et seq ante; and as to the election of councillors for parish or community councils see para 207 et seq ante.

10 This is the sense of the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 3(2) (see para 477 post). As to polls consequent on a parish meeting generally see para 207 et seq ante.

11 For the meaning of 'regional election', in relation to a Welsh Assembly election, see para 3 note 1 ante.

12 As to European parliamentary elections see para 224 et seq ante.

13 As to the appropriate rules for use in Welsh Assembly regional elections, elections for the return of London members of the London Assembly or European parliamentary elections see para 388 ante.

14 As to references to party lists in Welsh Assembly regional elections see para 237 note 23 ante; and as to references to party lists in elections for the return of London members of the London Assembly see para 262 note 24 ante. In the case of a European parliamentary election, the reference is to a registered party's list; and for the meanings of 'registered party' and 'list' in this context see para 237 note 30 ante.

15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 14; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 21(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 19(1).

The text refers to the rules, in relation to an election for the return of London members of the London Assembly, in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 Pt IV rr 15–47 (as amended) or, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Pt III paras 22–56 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Pt 3 paras 20–55 (as amended) (see para 390 et seq post).

16 Ie, in relation to a local authority mayoral election, the local authority mayoral election rules and, in relation to the election for the Mayor of London, the London mayoral election rules (see para 388 ante).

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 14; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 14. If only two candidates remain as referred to in the text, the poll in relation to the election of the Mayor of London is taken in accordance with the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 Pt IV rr 15–47 (as amended) or, in relation to a local authority mayoral election, in accordance with the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Pt IV regs 15–45 (as amended) (see para 390 et seq post); but, if more than two candidates remain as referred to in the text, the poll is taken in accordance with the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 Pt IV rr 15–47 (as amended) and Pt V rr 48–49 or the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Pt IV regs 15–45 (as substituted and amended) and Pt V regs 46–47 (see para 458 et seq post): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 14(a), (b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 14(a), (b).

18 See para 477 et seq post.

390. Poll to be taken by secret ballot. Polling takes place between the hours of seven in the morning and ten at night on the day of election[1], except in the case of a local authority mayoral election, when polling takes place between the hours of eight in the morning and nine at night on the day of election[2]. At a poll consequent on a parish meeting, polling takes place between the hours of four in the afternoon and nine at night on the day fixed for the poll[3]. The votes at the poll at any such election[4] must be given by ballot[5].

The register of electors is conclusive as to certain questions in connection with a person's entitlement to vote[6]; and a person entitled to vote as an elector is entitled to vote by post or by proxy at the election if he is shown in the absent voters list for the election as so entitled[7]. A person registered as an elector or entered in the list of proxies must not be excluded from voting on the ground of legal incapacity[8]. If, however, an entry in the register shows that the person named will attain voting age on a given date and the date fixed for the poll falls before the date, the entry is conclusive that he is not entitled to be treated as an elector until the date given, and accordingly a ballot paper must not be delivered to him[9]. No misnomer or inaccurate description of any person or place named in the register affects the full operation of it with respect to that person or place in any case where the description of the person or place is such as to be commonly understood[10].

No inquiry is permitted as to the right of any person to vote except so far as the voter may be asked the prescribed questions[11]. No person who has voted at such an election may, in any legal proceeding to question the election, be required to state for whom he has voted[12]. Nor may a person who has voted at a poll consequent on a parish or community meeting, in any legal proceedings to question such a poll, be required to say how or for whom he has voted[13]. It is an offence to obtain or attempt to obtain in a polling station information as to the candidate for whom a voter votes or to communicate information so obtained[14]. The returning officer[15] must make such arrangements as he thinks fit to ensure that: (1) every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter with disabilities (or a blind voter) to vote[16] or as a constable on duty there)[17]; and (2) every person attending at the counting of the votes including those attending at the verification of ballot paper accounts at a European parliamentary election (otherwise than as a constable on duty at the counting or at any verification)[18], has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to attendance at a polling station or at the counting of votes (as the case may be)[19].

1 Representation of the People Act 1983 s 23(1), Sch 1 r 1 (amended by the Representation of the People Act 1985 s 24, Sch 4 para 73); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 3(1) (amended by SI 2001/3789); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 3(1) (amended by SI 2001/3789); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 3(1) (amended by SI 2001/3789); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 1(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 1; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 1. Votes which are given by post must also reach either the returning officer or the polling station by the close of poll: see para 425 post.

The provision set out in the text applies to a parliamentary election, an Authority election or an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. For the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante. As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante.

It is not illegal for an employer to permit electors or their proxies to absent themselves from his employment for a reasonable time for the purpose of voting at the poll at an election without having any

deduction from their salaries or wage on account of their absence but the permission must adhere to certain conditions if it is not to be taken as a form of bribery: see para 715 post.

2 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 3. As to elections for the return of a local authority mayor and the date of the poll at such an election see para 205 ante.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1. As to polls consequent on a parish meeting see para 207 et seq ante; and as to the date of the poll consequent on a parish meeting on a question involving appointment to office see para 214 ante.

4 Ie including an election for the return of a local authority mayor and a poll consequent on a parish meeting on a question which involves appointment to office: see notes 1–3 supra.

5 Representation of the People Act 1983 Sch 1 r 18; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 14, Sch 2 r 15, Sch 3 r 15; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 15; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 22(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 20; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 15; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 15. As to polls consequent on a parish meeting see the Local Government Act 1972 s 99, Sch 12 Pt III para 18(5), Pt V para 34(5); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 258. As to the manner of voting at elections see paras 368–371 ante.

6 See para 162 ante.

7 See para 371 ante. For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to parliamentary and local government elections, see para 110 note 2 ante; in relation to Welsh Assembly elections, see para 124 note 5 ante; and in relation to European parliamentary elections, see para 125 note 6 ante. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see paras 382, 387 ante.

8 See para 162 ante.

9 See para 162 ante.

10 See para 159 ante.

11 See para 403 post.

12 Representation of the People Act 1983 Sch 1 r 21; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 17, Sch 2 r 18, Sch 3 r 18; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 18; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 27; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 23; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 19; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 19.

At a parliamentary, Welsh Assembly or European parliamentary election, the legal proceedings might also be to question the return: Representation of the People Act 1983 Sch 1 r 21; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 27; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 23.

13 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 6.

14 See para 742 et seq post.

15 As to returning officers for elections generally see para 355 et seq ante.

16 As to companions assisting voters with incapacities see para 407 post.

17 Representation of the People Act 1983 Sch 1 r 31(a) (Sch 1 r 31 substituted by the Representation of the People Act 1985 s 24, Sch 4 para 80); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 26(a), Sch 2 r 27(a), Sch 3 r 27(a) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 27(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 36(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 32(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 28(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 28(a). As to constables on duty see para 402 post.

18 Representation of the People Act 1983 Sch 1 r 31(b) (as substituted: see note 17 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 26(b), Sch 2 r 27(b), Sch 3 r 27(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 27(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 36(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 32(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 28(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 28(b).

19 Representation of the People Act 1983 Sch 1 r 31(a), (b) (as substituted: see note 17 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(a), (b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 26(a), (b), Sch 2 r 27(a), (b), Sch 3 r 27(a), (b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 27(a), (b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 36(a), (b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 32(a), (b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 28(a), (b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 28(a), (b). The text refers: (1) for the purposes of those attending at a polling station, to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(1), (3), (6) (as amended) or, in relation to Welsh Assembly elections, the requirement set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1), (3), (6) or, in relation to European parliamentary elections, the requirement set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1), (4), (7) (see paras 742, 744 post); and (2) for the purposes of those attending the counting of the votes (including the verification of ballot paper accounts at a European parliamentary election), to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(2), (6) (as amended) or, in relation to Welsh Assembly elections, the requirement set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(2), (6) or, in relation to European parliamentary elections, the requirement set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(2), (3), (7) (see para 743 post). At a poll consequent on a parish or community meeting, the provisions relating to the requirement of secrecy are subject to the adaptations, alterations and exceptions in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(e) (as to which see para 388 ante): Schedule r 13(a).

391. Form and printing of ballot papers. The ballot of every voter at an election[1] consists of a ballot paper[2] which must be in the prescribed form and must be printed in accordance with the prescribed directions[3].

Those entitled to have their names inserted in the ballot paper are: (1) at a parliamentary, London Assembly constituency or Welsh Assembly constituency election, those persons shown in the statement of persons nominated as standing nominated for the constituency, and no others[4]; (2) at a local government election, those persons remaining validly nominated for the electoral area, after any withdrawals, and no others[5]; (3) at an election for the return of a local authority mayor or Mayor of London, those persons remaining validly nominated for election to the office of mayor, after any withdrawals, and no others[6]; (4) at a London Assembly London members election, after any withdrawals, each registered party whose party list includes persons who remain validly nominated as list candidates[7] and the persons remaining validly nominated as individual candidates at that election[8]; (5) at a Welsh Assembly regional election, those persons shown in the statement of persons nominated as standing nominated (whether as individual or party list candidates), and no others[9], and the registered political parties which have submitted a party list shown in the statement of persons nominated, and no others[10]; and (6) at a European parliamentary election, the registered parties, together with their candidates shown in the statement of parties and individual candidates nominated and the individual candidates so shown as standing nominated, and no others[11]. There is authority to the effect that where the name of a candidate who had withdrawn was retained on a ballot paper, the election was avoided[12].

The ballot paper at an election[13] must contain: (a) the names and other particulars[14] of the individual candidates as shown in the statement of persons nominated, with the names in the order as shown in that statement[15]; and (b) in the case of a London Assembly London members election, a Welsh Assembly regional election or a European parliamentary election, the names (or descriptions) of the registered political parties together with the names of the candidates included on those parties' lists, with the descriptions (and, in respect of each such description of a registered political party, the names of the party list candidates) in the same order as in the statement of persons nominated[16]. At a poll consequent on a parish meeting taken on a question of

appointment to any office, the ballot paper must contain full names, home addresses and, if required, descriptions of the candidates arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names[17].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 19(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 4(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 15(1), Sch 2 r 16(1), Sch 3 r 16(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 16(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 paras 23(1), 24(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 21(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 16(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 16(1).

3 Representation of the People Act 1983 Sch 1 r 19(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(2), Sch 2 r 16(1), (3)(a), Sch 3 r 16(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 23(3), 24(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(2).

For the prescribed forms of ballot paper see the Representation of the People Act 1983 Sch 1 Appendix (Form of ballot paper and directions as to printing the ballot paper) (amended by the Representation of the People Act 1985 s 24, Sch 4 paras 84, 85; the Welsh Language Act 1993 s 35(4); the Registration of Political Parties Act 1998 s 13, Sch 2 paras 5, 6, Appendix; and the Electoral Administration Act 2006 ss 30(1), (3), 31(1), (9), 47, 74(2), Sch 1 paras 69, 93(1), (2), Sch 2); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of front and back of ballot paper, directions as to printing the ballot paper), r 4, Sch 3 Appendix of Forms (Form of front and back of ballot paper, directions as to printing the ballot paper) (where such a poll is taken together with another relevant election or referendum); the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of front and back of ballot paper, directions as to printing the ballot paper), r 4, Sch 3 Appendix of Forms (Form of front and back of ballot paper, directions as to printing the ballot paper) (where such a poll is taken together with another relevant election or referendum); the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of ballot paper on a question of appointment to an office and directions as to printing the ballot paper) (amended by SI 1987/262); the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 (Form 5: ballot paper for constituency members elections and directions as to printing the ballot paper; Form 6: ballot paper for London members elections and directions as to printing the ballot paper; Form 7: ballot paper for mayoral elections and directions as to printing the ballot paper); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 4(1), Sch 1 Appendix of Forms (Form 3: ballot paper (two candidates) and directions as to printing the ballot paper; Form 4: ballot paper (three or more candidates) and directions as to printing the ballot paper); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Appendix of Forms (Form of ballot paper: constituency election, directions as to printing the ballot paper: constituency election; Form of ballot paper: regional election, directions as to printing the ballot paper: regional election); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (Form of ballot paper, directions as to printing the ballot paper). As to parliamentary elections taking place in Wales see also the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4, 6(1)(a), Sch 2 (Form 1: Form of back of ballot paper); as to principal area council elections taking place in Wales see also the Elections (Welsh

Forms) Order 1995, SI 1995/830, art 4; as to community council elections taking place in Wales see also art 5; and as to European parliamentary elections taking place in Wales see also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6, Sch 2 (Form 1: Form of back of ballot paper).

In the case of a parliamentary election, the Secretary of State may in regulations prescribe a different form of ballot paper from that in the Representation of the People Act 1983 s 23(1), Sch 1 Appendix, amend or replace the directions as to printing the ballot paper in the Appendix and, in consequence of anything done for those purposes, amend or replace in the Appendix the form of directions for the guidance of the voters in voting: Sch 1 r 19(4) (added by the Electoral Administration Act 2006 s 30(1), (2)). Provision is made also for the Secretary of State to make a pilot order for the purposes of enabling ballot papers issued at such local government elections as are specified in the order to contain photographs of the candidates and for any such scheme to be evaluated and to be applied on a permanent basis in relation to specified elections: see the Electoral Administration Act 2006 ss 32–34; and paras 516–518 post. As to the Secretary of State see para 2 ante.

Any amendment effected by ss 30, 31(1) or by Sch 1 paras 69, 93(1), (2), Sch 2 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 Representation of the People Act 1983 Sch 1 r 19(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 23(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(1). As to the statement of persons nominated see para 272 ante.

5 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(1).

6 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 16(2).

7 Ibid Sch 2 r 16(2)(a).

8 Ibid Sch 2 r 16(2)(b).

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 24(2)(a).

10 Ibid Sch 5 para 24(2)(b). A registered party so entitled has its description (see Sch 5 para 7(2); and para 263 ante) inserted in the ballot paper.

11 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(1).

12 *Wilson v Ingham* (1895) 64 LJ QB 775, DC.

13 As to a poll consequent on a parish meeting taken on a question of appointment to any office see the text and note 17 infra.

14 In the case of a Welsh Assembly regional election and a European parliamentary election, the descriptions of the individual candidates (rather then their particulars) are specified: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 24(3)(a); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(a).

If a request is duly made, the ballot paper must contain, against the particulars of a candidate who is the subject of a party's authorisation (see para 263 ante), the party's registered emblem (or, as the case may be, one of the party's registered emblems): Representation of the People Act 1983 Sch 1 r 19(2A) (Sch 1 r 19(2A), (2B) added by the Registration of Political Parties Act 1998 s 13, Sch 2 para 4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(3), Sch 2 r 16(5), Sch 3 r 16(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 23(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(3). Except in the case of a Welsh Assembly constituency election, such a request must be made in writing to the returning officer and be received by him during the period for delivery of nomination papers (as to which see para 267 ante): Representation of the People Act 1983 Sch 1 r 19(2B) (as so added); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(4), Sch 2 r 16(6), Sch 3 r 16(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(4).

15 Representation of the People Act 1983 Sch 1 r 19(2)(a), (3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(2)(a), (5), Sch 2 r 16(3)(b), (7), Sch 3 r 16(3)(b), (6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(3)(a), (6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 23(3)(a), (4), 24(3)(a), (4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293,

Sch 1 para 21(2)(a), (5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(2)(a), (5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(2)(a), (5).

In the case of a London Assembly London members election, it is specified that, after the names of the registered parties alphabetically arranged, the names of the individual candidates must be arranged in order of their surnames and, if there are two or more of them with the same surname, of their other names: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(7). This reiterates the arrangement that is specified for the statement of persons nominated: see para 272 ante. In the case of an election of a local authority elected mayor or of the Mayor of London, it is specified that the names of the candidates must be arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(6).

16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(3)(b), (7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 24(3)(b), (4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(a), (5). In the case of a London Assembly London members election see also note 15 supra.

If a request is duly made (see para 263 ante), the registered political party's registered emblem (or, as the case may be, one of the party's registered emblems) must be shown on the ballot paper against the party's name or (as the case may be) description: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 24(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(3). Except in the case of a Welsh Assembly regional election, such a request must be made in writing to the returning officer and be received by him during the period for delivery of nomination papers (as to which see para 267 ante): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 16(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(4).

17 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(a).

392. Security measures associated with the ballot paper. The ballot paper to be used at a parliamentary election[1], or at local government elections for principal areas, parishes and communities[2], must have a number and other unique identifying mark printed on the back[3] and the returning officer[4] must prepare a list (the 'corresponding number list')[5] containing the numbers and other unique identifying marks of all of the ballot papers which either are to be issued by him to those entitled to vote by post[6] or are to be provided by him to each presiding officer for use at polling stations[7]. The ballot paper to be used at any other election[8] must have a number printed on the back[9] and must have attached a counterfoil with the same number printed on it[10]. At elections where voters may cast more than one vote, the ballot paper must have such other distinguishing features as may be specified[11].

The ballot paper to be used at any election must be capable of being folded up[12].

Every ballot paper to be used at a parliamentary election, or at local government elections for principal areas, parishes and communities, must contain an appropriate security marking (the official mark)[13]; at any other election, every ballot paper must be marked with an official mark which must perforate the ballot paper[14]. The official mark must be kept secret and the same mark may be used only subject to the following constraints[15]: (1) at a parliamentary election, an interval of not less than seven years must intervene between the use of the same official mark at elections for the same constituency[16]; (2) at a local government election or at a local authority mayoral election, an interval of not less than five years must intervene between the use of the same official mark for elections in the same county, county borough district, London borough, parish or community, or between the use of the same official mark at any Authority election, as the case may be[17]; (3) at a poll consequent on a parish meeting taken on a question of appointment to any office, the same official mark must not be used at consecutive polls in the same parish[18]; (4) at a Welsh Assembly election, an interval of not less than seven years must intervene between the use of the same official

mark at elections for the same Assembly constituency or, in relation to the same Assembly constituency, at elections in the same Assembly electoral region[19]; and (5) at a European parliamentary election, an interval of not less than seven years must intervene between the use of the same official mark at elections for the same local counting area[20]. The returning officer at a parliamentary election, or at local government elections for principal areas, parishes and communities, may use a different official mark for different purposes at the same election[21]; at any other election, it is specified that the official mark used for ballot papers issued for the purpose of voting by post must not be used at the same election for ballot papers issued for the purpose of voting in person[22].

1 For the meaning of 'parliamentary election' see para 9 ante. As to the form and printing of ballot papers see para 391 ante.

2 As to the ordinary election of councillors for local government principal areas see para 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see para 207 et seq ante. As to London Authority elections see the text and notes 8–11 infra. For the meanings of 'Authority election' and 'local government election' see para 10 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 19(2)(c) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 87); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 16(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 16(2)(c).

Any amendment effected by the Electoral Administration Act 2006 s 31 or Sch 1 paras 69, 87 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 As to the returning officer at parliamentary elections see para 355 et seq ante; and as to the returning officer appointed for the purposes of local government elections see para 359 et seq ante.

5 For the purposes of a parliamentary election, the list must be in such form as the Secretary of State in regulations prescribes: Representation of the People Act 1983 Sch 1 r 19A(2) (Sch 1 r 19A added by the Electoral Administration Act 2006 s 31(1), (2)). As to the commencement of this provision see note 3 supra. Accordingly, the form of the corresponding number list to be prepared by a returning officer under the Representation of the People Act 1983 Sch 1 r 19A (as added) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form L1: corresponding number list for use at parliamentary election taken alone) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(1) (added by SI 2006/2910). As to the Secretary of State see para 2 ante. When a parliamentary election is combined with another poll under the Representation of the People Act 1985 s 15 (as amended) (see paras 21–22 ante) or under the Local Government Act 2000 s 44(2) (provision for the combination of polls at elections for the return of elected mayors and at elections for the return of elected executive members: see para 26 ante) or under s 45(6) (provision for the combination of polls at referendums with polls at any elections: see para 27 ante), the corresponding number list to be prepared by a returning officer under the Representation of the People Act 1983 Sch 1 r 19A (as added) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form M1: corresponding number list for use when parliamentary election combined with a relevant election or referendum) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(3) (added by SI 2006/2910). The regulation refers to polls that are combined under the Local Government Act 2000 s 44(2) or s 44(6), but it is submitted that a reference to s 45(6) is intended.

For the purposes of local government elections for principal areas, the corresponding number list must be in the appropriate form, or a form to like effect (see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17(2), Appendix of Forms (Form L1: corresponding number list to be used at a local government election taken alone)); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form M1: corresponding number list to be used when a local government election is combined with another election/referendum). For the purposes of local government elections for parishes and communities, the corresponding number list must be in the appropriate form, or a form to like effect (see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17(2), Sch 2 Appendix of Forms (Form L1: corresponding number list to be used at a parish or community election taken alone)); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form M1: corresponding number list to be used when a parish or community election is combined with another election/referendum).

The amendments effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, do not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

6 Ie, in relation to a parliamentary election, in pursuance of the Representation of the People Act 1983 Sch 1 r 24(1) (as substituted) or, in relation to a local government election for a principal area, in pursuance of the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(1) or, in relation to a local government election for a parish or community council, in pursuance of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(1) (see para 411 post).

7 Representation of the People Act 1983 Sch 1 r 19A(1) (as added: see note 5 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17(1). See note 3 supra. The text refers to ballot papers to be provided by the returning officer to each presiding officer, in relation to a parliamentary election, in pursuance of the Representation of the People Act 1983 Sch 1 r 29(1) or, in relation to a local government election for a principal area, in pursuance of the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(1) or, in relation to a local government election for a parish or community council, in pursuance of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(1) (see para 396 post). As to presiding officers at an election see para 398 post.

8 Ie at an Authority election or an election under the local government Act (see ibid s 202(1); and para 3 note 1 ante), an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered. For the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

9 Parish and Community Meetings (Polls) Rules 1987, r 5, SI 1987/1, Schedule r 4(2)(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 15(2)(c), Sch 2 r 16(3)(d), Sch 3 r 16(3)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 16(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 paras 23(3)(c), 24(3)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 21(2)(c).

10 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(e); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(2)(d), Sch 2 r 16(3)(e), Sch 3 r 16(3)(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 23(3)(d), 24(3)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(d).

11 Generally, where the polls at elections are taken together, the ballot papers must be of a different colour for each election: see the rules cited at para 16 et seq ante.

The ballot papers at an ordinary London Authority election must be of different colours according to whether the election is to be held under the constituency member election rules, the London member election rules or the mayoral election rules: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 2(1). Where, at an ordinary election at which two (or more) polls are to be taken together, the votes are to be counted electronically, the Greater London returning officer may determine that two or more ballot papers are to appear on the same sheet of paper: Sch 4 r 2(2). As to the wording of headings of ballot papers at ordinary elections see Sch 4 r 2(3), (4). For the meaning of the 'Greater London returning officer' see para 218 note 7 ante; and for the meanings of 'constituency member election rules', 'London member election rules' and 'mayoral election rules' see para 388 ante. In the case of an election of the Mayor of London, it is specified that the ballot paper must be of a different colour from that of any ballot papers used at any other election for which the poll is taken together with that at the election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 16(3)(a).

Where a poll consequent on a parish or community meeting on the question of appointment to any office and a poll on any other question (as to which see para 558 et seq post) are taken together, ballot papers of a different colour must be used for each poll: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(3).

In the case of a Welsh Assembly ordinary election, where a voter is entitled to give two votes, the ballot paper for each vote must be of a different colour: National Assembly for Wales (Representation of

the People) Order 2003, SI 2003/284, Sch 5 para 25. At a Welsh Assembly regional election, the ballot paper must also bear a mark or other distinguishing feature by which the Assembly constituency can be identified in which the vote is to be given in relation to the ballot paper: Sch 5 para 24(3)(d).

12 Representation of the People Act 1983 Sch 1 r 19(2)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 15(2)(b), Sch 2 r 16(3)(c), Sch 3 r 16(3)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 16(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 23(3)(b), 24(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 21(2)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 16(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 16(2)(b).

13 Representation of the People Act 1983 Sch 1 r 20(1) (substituted by the Electoral Administration Act 2006 Sch 1 paras 69, 88(1), (2)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 18(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 18(1).

Any amendments effected by the Electoral Administration Act 2006 Sch 1 paras 69, 88 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

14 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 16(1), Sch 2 r 17(1), Sch 3 r 17(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 17(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 22(1). Absence of the official mark invalidates the vote: see para 434 et seq post.

15 Representation of the People Act 1983 Sch 1 r 20(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 16(2), Sch 2 r 17(2), Sch 3 r 17(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 17(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 22(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 18(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 18(2). As to the offence of disclosing an official mark see para 742 post.

16 Representation of the People Act 1983 Sch 1 r 20(2).

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 16(2), Sch 2 r 17(2), Sch 3 r 17(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 17(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 18(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 18(2).

18 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(2).

19 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(2).

20 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 22(2). For the meaning of 'local counting area' see para 230 note 11 ante.

21 Representation of the People Act 1983 Sch 1 r 20(3) (substituted by the Electoral Administration Act 2006 Sch 1 paras 69, 88(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 18(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 18(3). See note 13 supra.

22 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 16(3), Sch 2 r 17(3), Sch 3 r 17(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 17(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 22(3). As to voting by post see para 411 et seq post. The restriction set out in the text does not apply at a poll consequent on a parish meeting taken on a question of appointment to any office (where no provision is made for postal voting). At a Welsh Assembly election, the restriction applies both at a constituency election and at a regional election (in relation to an Assembly constituency within the Assembly electoral region): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 26(3). At a regional election, a different official mark may be used in Assembly constituencies in an Assembly electoral region but only one such mark may be used in an Assembly constituency at a regional election (Sch 5 para 26(4)); and at an ordinary election the same official mark may be used at a constituency election and a regional election in relation to regional votes given in the same Assembly constituency (Sch 5 para 26(5)).

393. Notice of poll. In the statement of persons nominated[1] at an election[2], except a local government election[3], the appropriate returning officer[4] must include a notice of the poll, stating the day on which and hours during which the poll will be taken[5].

At a local government election (but including, of the Authority elections, only a London Assembly constituency election), the returning officer must publish the notice of poll not later than the sixth day before the day of election[6] and such notice must state not only the day and hours fixed for the poll[7] but also the particulars of each candidate remaining validly nominated (the names and other particulars of the candidates, and the order of the names of the candidates, being the same as in the statement of persons nominated)[8], and (except for London Assembly constituency elections) the number of councillors to be elected[9] and the names of all persons signing a candidate's nomination paper[10]. In the case of a London Assembly London members election, the Greater London returning officer must publish the notice of poll not later than the sixth day before the day of election[11] and such notice must state the day and hours fixed for the poll[12], the number of seats for London members available for allocation at that election[13], the names of each registered party whose party list includes persons who remain validly nominated as list candidates[14], and particulars of each individual candidate remaining validly nominated[15], with the names of the registered parties alphabetically arranged, followed by the names of the individual candidates arranged in order of their surnames and, if there are two or more of them with the same surname, of their other names[16]. The returning officer at a poll consequent on a parish meeting taken on a question of appointment to any office must, not later than the fifth day before the day of the poll[17], give public notice of the poll which refers to the parish or meeting at which a poll was demanded[18]. Such notice must state the day and hours fixed for the poll[19], the name of the office, the number of vacancies and the particulars of each candidate who has not withdrawn (the order of the candidates and the particulars being the same as in the ballot papers) and the name of the proposer of each candidate[20]. At a local authority or London mayoral election, the returning officer must publish notice of the poll not later than the sixth day before the day of election[21] stating the day and hours fixed for the poll and the particulars of each candidate remaining validly nominated[22], with the names of the candidates arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names[23].

At any election, the returning officer must also give public notice of the situation of each polling station and the description of voters entitled to vote at that station[24] and (at elections where election agents are appointed) he must as soon as practicable after giving such a notice give a copy of it to each of the election agents[25].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for giving the notice of poll[26].

1 As to the statement of persons nominated see para 272 ante.

2 Ie at a parliamentary election or an Authority election (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

3 For the meaning of 'local government election' see para 10 ante.

4 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including elections for the return of a local authority mayor) see para 359 et seq ante; as to the returning officer at a poll consequent on parish meeting see para 361 ante; and as to returning officers for European parliamentary elections see para 365 et seq ante. In the case of an election

for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see para 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see para 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, 'appropriate returning officer' means, in relation to a constituency election, a constituency returning officer (for the meaning of which see para 18 note 2 ante) and, in relation to a regional election, a regional returning officer (for the meaning of which see para 18 note 2 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); and para 242 note 7 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 23(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 29(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 25(1). As to the date of the poll at a parliamentary general election or by-election see para 202 ante; as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante; and as to the date of the poll at a European parliamentary election see para 229 ante. As to the hours of polling at an election see para 390 ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 3(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 1. The notices of poll at an ordinary London Authority election must include the heading 'GREATER LONDON AUTHORITY ELECTION': Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 3. As to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante.

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(1)(a).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(1)(c).

9 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(1)(b).

10 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(1)(d). At a parish or community council election, the nomination paper is signed only by a proposer and seconder; at other local government elections, eight electors must also sign as assenting to the nomination: see para 264 ante. In the case of a candidate nominated by more than one nomination paper, the nomination paper referred to in the text must be that from which the names and other particulars of the candidate shown in the statement of persons nominated are taken: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(2).

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 3(1). The notices of poll at an ordinary London Authority election must include the heading 'GREATER LONDON AUTHORITY ELECTION': Sch 4 r 3.

12 Ibid Sch 2 r 20(1)(a).

13 Ibid Sch 2 r 20(1)(b).

14 Ibid Sch 2 r 20(1)(c).

15 Ibid Sch 2 r 20(1)(d).

16 Ibid Sch 2 rr 16(7), 20(1).

17 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1. As to the computation of any period of time for these purposes see para 219 note 5 ante. As to polls consequent on a parish meeting on a question involving appointment to office see para 207 et seq ante; and as to the date of such a poll see para 214 ante. As to returning officers appointed for such a poll see para 361 ante.

18 Ibid Schedule r 8.

19 Ibid Schedule r 8(a).

20 Ibid Schedule r 8(b).

21 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 3(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 3. The notices of poll at an ordinary London Authority election must include the heading 'GREATER LONDON AUTHORITY ELECTION': Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 4 r 3. As to the date of the poll at an election for the return of a local authority mayor see para 205 ante.

22 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 20(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 20(1).

23 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 rr 16(6), 20(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 rr 16(6), 20(1).

24 Representation of the People Act 1983 Sch 1 r 23(2) (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 77, Sch 5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(2), Sch 2 r 20(2), Sch 3 r 20(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 20(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 25(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(3).

At a parliamentary election, the notice referred to in the text may be combined with the statement of persons nominated: Representation of the People Act 1983 Sch 1 r 23(2). In the case of a local government election (including London Authority elections) or a local authority mayoral election, the notice must be given not later than the time of the publication of the notice of the poll: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(2), Sch 2 r 20(2), Sch 3 r 20(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 20(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(3). In the case of a Welsh Assembly regional election, the constituency returning officer for each Assembly constituency in the Assembly electoral region must prepare and publish the notice of poll (which may be combined with the statement of persons nominated) setting out the situation of each polling station in the Assembly constituency for which he is returning officer and the description of voters entitled to vote there: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(3). At an ordinary Welsh Assembly election, the notices so prepared by a constituency returning officer for the purposes of a constituency election and a regional election may be combined: Sch 5 para 29(4). At a European parliamentary election, the notice referred to in the text is given by the local returning officer and in respect of each local counting area or part of an area contained in the electoral region: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 25(2). For the meaning of 'local counting area' see para 230 note 11 ante. As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.

25 Representation of the People Act 1983 Sch 1 r 23(2) (as amended: see note 24 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 19(2), Sch 2 r 20(2), Sch 3 r 20(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 20(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 25(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 21(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 21(3). In the case of a Welsh Assembly regional election, the constituency returning officer for each Assembly constituency in the Assembly electoral region must, as soon as practicable after publishing the notice of poll, give a copy of it to each of the election agents and deliver, or cause to be delivered, a copy of it to the regional returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 29(3).

26 As to polls at elections or referendums which are taken together see para 16 et seq ante.

394. Issue of official poll cards. The returning officer at a parliamentary election[1], a local government election[2], a local authority mayoral election[3], a Welsh Assembly election[4] or a European parliamentary election[5] must, as soon as practicable[6], send an official poll card to electors and their proxies[7]. However, except at parliamentary elections or at local government elections for principal areas, parishes and communities, such a card need not be sent to any person as an elector if he is placed on the absent voters list[8] for the election or to any person as a proxy if he is entitled to vote by post as proxy[9] at the election[10]. In relation to a parliamentary or European parliamentary election, a card must not be sent to any person registered, or to be registered, in pursuance of an overseas elector's declaration[11].

An elector's official poll card must be sent or delivered to his qualifying address and a proxy's card to his address as shown in the list of proxies[12]. The official poll card must set out the name of the electoral division to which it relates (and/or, as the case may be, the

election to which it relates)[13], the elector's name, qualifying address and number on the register[14], and the date and hours of the poll and situation of the elector's polling station[15]. In relation to a parliamentary election, the official poll card must also set out such other information as is prescribed[16] and, in relation to such an election and a local government election for a principal area, parish or community, it must set out such other information as the returning officer thinks appropriate[17]; and different information may be so provided to different electors or descriptions of elector[18].

The official poll card must be in the prescribed form or a form to the like effect[19]. In circumstances when the polls at elections or referendums are taken together, the official poll card may be combined[20].

The issue of any poll card, or any document so closely resembling an official poll card as to be calculated to deceive, is an offence at certain elections and an illegal practice[21].

1 For the meaning of 'parliamentary election' see para 9 ante. As to returning officers for parliamentary elections see para 355 et seq ante.

2 For the meaning of 'local government election' see para 10 ante. As to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante. In relation to a London Authority election, the appropriate returning officer is the constituency returning officer (for the meaning of which see para 218 note 8 ante). There is no provision for poll cards to be issued for the purposes of a poll consequent on a parish meeting (as to which see para 207 et seq ante).

3 As to elections for the return of a local authority mayor see para 205 ante; and as to returning officers for such elections see para 359 et seq ante.

4 Ie the constituency returning officer at an ordinary election where an elector is entitled to give two votes, or at an Assembly election (other than an ordinary election where an elector is entitled to give two votes): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 33(1). For the meaning of 'constituency returning officer' in this context see para 18 note 2 ante.

5 Ie the local returning officer for the European parliamentary election (see para 365 et seq ante). As to European parliamentary elections see para 224 et seq ante.

6 Ie, in the case of a parliamentary election or local government election, as soon as practicable after the publication of notice of the election: Representation of the People Act 1983 Sch 1 r 28(1) (substituted by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 70(1), (2)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 25(1). As to publication of notice of the election at a parliamentary election see para 203 ante; and as to publication of the notice for a local government election see para 218 ante.

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 69, 70 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

7 Representation of the People Act 1983 Sch 1 r 28(1) (as substituted: see note 6 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 23(1), Sch 2 r 24(1), Sch 3 r 24(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 24(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(2). Where the poll at a parish or community election is not to be taken together with the poll at some other election, the returning officer acts only after receiving a request to issue official poll cards for that election from the council of the parish or community, such a request having to be made not later than noon on the nineteenth day before the day of election: Sch 2 r 25(1). In the case of an elector with an anonymous entry, the returning officer must issue an official poll card in the appropriate form (as to which see note 19 infra) to every such elector or to his proxy (if appointed) whether or not the local council of the parish or community makes such a request (Sch 2 r 25(5)(a)); and in the case of such an elector the official poll card must be sent in an envelope or other form of covering so as not to disclose that the elector has an anonymous entry in the register (Sch 2 r 25(5)(c)). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

For the meaning of 'elector' by virtue of the Representation of the People Act 1983 s 23(1), Sch 1 r 28(4) see para 262 note 5 ante; by virtue of the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(5) and the Local Elections (Parishes and Communities) (England

and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(6) see para 262 note 14 ante; and by virtue of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(4) see para 335 note 10 ante.

For these purposes, in relation to a Welsh Assembly election, 'elector' means a person who is registered as a local government elector, in relation to a constituency election, in the Assembly constituency in a register to be used at the election or, in relation to a regional election, in the Assembly electoral region in a register to be used at the election, or who, pending publication of the register, appears from the electors' lists for that register, as corrected by the registration officer, to be entitled to be so registered: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 r 33(8). Accordingly, for these purposes, the definition includes a person shown in the register of electors' lists as below voting age if it appears from it that he will be of voting age on the day fixed for the poll, but not otherwise: Sch 5 r 33(8). 'Electoral number' means a person's number in the register to be used at the election except that before publication of the register his number (if any) in the electors' lists for that register must be used instead: Sch 5 r 33(8).

8 As to the absent voters list see para 378 ante.

9 As to proxies entitled to vote by post see para 387 ante.

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(1), Sch 2 r 24(1), Sch 3 r 24(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(1)(i), (ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(1).

11 Representation of the People Act 1983 Sch 1 r 28(1A) (added by the Electoral Administration Act 2006 Sch 1 paras 69, 70(1), (2)); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(1). As to registration in pursuance of an overseas elector's declaration and a European parliamentary overseas elector's declaration see para 129 et seq ante.

As to the commencement of the Representation of the People Act 1983 Sch 1 r 28(1A) (as added) see note 6 supra. Until the commencement of that provision, the wording set out in the text and note 11 is cited under Sch 1 r 28(1) (amended by the Representation of the People Act 1985 ss 4, 11, Sch 2 Pt I para 6).

12 Representation of the People Act 1983 Sch 1 r 28(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(2), Sch 2 r 24(2), Sch 3 r 24(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(3).

13 Representation of the People Act 1983 Sch 1 r 28(3)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3)(a), Sch 2 r 24(3)(a), Sch 3 r 24(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4)(a).

In relation to a parliamentary election, the name of the constituency is set out: Representation of the People Act 1983 Sch 1 r 28(3)(a). In relation to a local government election, the name of the council and (where appropriate) the name of the electoral division or ward to which councillors are to be elected are set out: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4)(a). In relation to a London Assembly constituency election, the name of the Assembly constituency for which a constituency member is to be elected is set out (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3)(a)); but, in relation to an election of London members of the London Assembly or of the London Mayor (which apply to the London Assembly area as a whole) the poll card must set out that the election is of the London members of the London Assembly at an ordinary election (Sch 2 r 24(3)(a)) or that the election is a mayoral election, as the case may be (Sch 3 r 24(3)(a)). In relation to a local authority mayoral election, the name of the local authority to which the election relates must be set out together with the fact that the election is a mayoral election: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3)(a), (b). In relation to a Welsh Assembly election, the name of the Assembly constituency or electoral region for which the election is to be held, or, in the case of an ordinary election where there are contested elections for an Assembly constituency and electoral region, both such areas, are set out: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(a). In relation to a European parliamentary election, the name of the electoral region must be set out: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3)(a).

14 Representation of the People Act 1983 Sch 1 r 28(3)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3)(b), Sch 2 r 24(3)(b), Sch 3 r 24(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(4)(b).

In the case of an elector at a parliamentary election with an anonymous entry, instead of containing the elector's name, qualifying address and number on the register, as mentioned in the text, the polling card must contain such matter as is prescribed: Representation of the People Act 1983 Sch 1 r 28(3A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 14(1), (3)). For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). At the date at which this volume states the law, no such regulations had been made. As to the making of regulations under the Representation of the People Act 1983 generally see para 24 note 16 ante.

In the case of an elector with an anonymous entry at a local government election for a principal area, instead of containing the elector's name, qualifying address and number on the register, as mentioned in the text, the polling card must contain such matter as is specified in the appropriate form (as to which see note 19 infra): Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(4). In the case of an elector with an anonymous entry at a local government election for a parish or community council, instead of containing the elector's name and qualifying address, as mentioned in the text, the polling card must contain the elector's number and such other matter as is specified in the appropriate form (as to which see note 19 infra): Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(5)(b).

15 Representation of the People Act 1983 Sch 1 r 28(3)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3)(c), Sch 2 r 24(3)(c), Sch 3 r 24(3)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 25(4)(c). In relation to a Welsh Assembly election, the official poll card must set such other information, not relating to any candidate or registered political party, as the constituency returning officer considers appropriate: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(3)(d).

16 Representation of the People Act 1983 Sch 1 r 28(3)(d) (Sch 1 r 28(3)(d), (e) added by the Electoral Administration Act 2006 Sch 1 paras 69, 70(1), (3)). As to the commencement of this provision see note 6 supra. For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). At the date at which this volume states the law, no such regulations had been made.

17 Ibid Sch 1 r 28(3)(e) (as added: see note 16 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4)(d). See note 6 supra.

18 Representation of the People Act 1983 Sch 1 r 28(3) (amended by the Electoral Administration Act 2006 Sch 1 paras 69, 70(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4). See note 6 supra.

19 Representation of the People Act 1983 Sch 1 r 28(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 23(3), Sch 2 r 24(3), Sch 3 r 24(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 24(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(4)–(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 29(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 25(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 25(4).

For these purposes, 'prescribed' means prescribed by regulations: Representation of the People Act 1983 s 202(1). As to the regulations made see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 9(1), (2), Sch 3 (Form A: official poll card (to be sent to an elector voting in person)) (reg 9(1), (2), Sch 3 (Form A) substituted by SI 2006/2910); the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 9(1), (3), Sch 3 (Form A1: official postal poll card (to be sent to an elector voting by post)) (reg 9(1), (3) substituted, and Sch 3 (Form A1) added, by SI 2006/2910); the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 9(1), (4), Sch 3 (Form B: official proxy poll card (to be sent to an appointed proxy voting in person)) (reg 9(1), Sch 3 (Form B) substituted, and reg 9(4) added, by SI 2006/2910); and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 9(1), (5), Sch 3 (Form B1: official proxy postal poll card (to be sent to an appointed proxy voting by post)) (reg 9(1) substituted, and reg 9(5), Sch 3 (Form B1) added, by SI 2006/2910).

In relation to a local government election see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (official poll card, official postal poll card, official proxy poll card, official proxy postal poll card), and r 4, Sch 3 Appendix of Forms (official poll card, official postal poll card, official proxy poll card, official proxy postal poll card) (where such a poll is taken together with another relevant election or referendum); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (official poll card, official postal poll card, official proxy poll card, official proxy postal poll card), and r 4, Sch 3 Appendix of Forms (official poll card, official postal poll card, official proxy poll card, official proxy postal poll card) (where such a poll is taken together with another relevant election or referendum). Combined poll cards for London Authority ordinary elections must be issued in the appropriate form: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 5. As to the forms in use for such elections and for the purposes of other constituency member and mayoral elections see r 4, Sch 5 (Form 10: elector's official poll card) (amended by SI 2001/3789); and the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 (Form 11: proxy's official poll card) (amended by SI 2001/3789; SI 2005/2114). As to the filling of vacancies in London member seats see para 206 ante.

In relation to a local authority mayoral election, see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 6: elector's official poll card); and the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 7: proxy's official poll card) (Form 7 amended by SI 2005/2114).

In relation to a Welsh Assembly election:

(1) at an ordinary election where an elector is entitled to give two votes, the official poll card issued to an elector must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Appendix of Forms (Form of elector's pollcard referred to in paragraph 33(4)) (Sch 5 para 33(4));

(2) where head (1) supra does not apply, the official poll card issued to an elector must be in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of elector's pollcard referred to in paragraph 33(5)) (Sch 5 para 33(5));

(3) at an ordinary election where an elector is entitled to give two votes, the official poll card issued to the proxy of an elector must be in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of elector's pollcard referred to in paragraph 33(6)) (amended by SI 2005/2114) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(6)); and

(4) at an Assembly election where head (3) supra does not apply, the official poll card issued to the proxy of an elector must be in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of elector's pollcard referred to in paragraph 33(7)) (amended by SI 2005/2114) (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 33(7)).

In relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (elector's official poll card); and Sch 1 Appendix of Forms (proxy's official poll card) (amended by SI 2005/2114).

Where such elections take place in Wales see also the forms issued partly in English and partly in Welsh in the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt III (elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr; proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 1995/830; SI 2005/2114); and the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt III (elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr; proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 1995/830; SI 2005/2114). Where such an election is held together with another election or referendum, see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt 2 (elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr; proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 2005/2114); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt 2 (elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr; proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 2005/2114). See also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6, Sch 2 (Form 2: elector's official poll card; Form 3: proxy's official poll card); the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6, Sch 2 (Form 5: elector's official poll card, cerdyn pleidleisio swyddogol yr etholwr); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, Sch 2 (Form 6: proxy's official poll card, cerdyn pleidleisio swyddogol y dirprwy) (amended by SI 2005/3470).

20 As to polls at elections or referendums which are taken together see para 16 et seq ante.

21 See para 705 post.

B. VOTES GIVEN AT A POLLING STATION

395. Provision and allotment of polling stations. At any election[1], the appropriate returning officer[2] must provide a sufficient number of polling stations and allot the electors[3] to the polling stations in such manner as he thinks most convenient, subject to the following requirements[4].

At a parliamentary, Welsh Assembly or European parliamentary election, the polling station allotted to the electors from any polling district must be in the polling place for that district[5]. At a local government or local authority mayoral election, the polling station allotted to electors from any parliamentary polling district wholly or partly within the electoral area[6] (or, as the case may be, London Assembly constituency[7]) must, in the absence of special circumstances, be in the parliamentary polling place for that district unless the polling place is outside the electoral area (or, as the case may be, London Assembly constituency)[8]. At a poll consequent on a parish meeting taken on a question of appointment to any office, the polling station allotted to electors from any parliamentary polling district wholly or partly within the parish must, in the absence of special circumstances, be in the parliamentary polling place for that district, unless the polling place is outside the parish[9].

One or more polling stations may be provided in the same room[10]. The returning officer must provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation[11].

The returning officer may use free of charge for the purpose of taking the poll: (1) a room in a school maintained or assisted by a local education authority[12] or a school in respect of which grants are made out of money provided by Parliament (or by the National Assembly for Wales, as the case may be) to the person or body of persons responsible for the management of the school[13]; or (2) a room the expense of maintaining which is payable out of any rate[14]. At a local government election or at a poll consequent on a parish meeting taken on a question of appointment to any office or at a local authority mayoral election, such a room may also be used for the purpose of counting the votes[15]. The returning officer must make good any damage done to, and defray any expense incurred by the persons having control over, any such room by reason of its being used for such purpose (or purposes, as the case may be)[16].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made as to which polling stations are to be used[17].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

2 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see para 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the

meaning of which see para 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer is, in relation to both a constituency and regional election, a constituency returning officer (for the meaning of which see para 18 note 2 ante).

3 For the meaning of 'elector', in relation to a parliamentary or local government election, see para 110 note 2 ante; in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 25(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 9(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 21(1), Sch 2 r 22(1), Sch 3 r 22(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 22(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 31(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 27(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 23(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 23(1). At a poll consequent on a parish meeting taken on a question of appointment to any office, the returning officer's duty to allot electors to a particular polling station applies only where more than one polling station is provided: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(1).

5 Representation of the People Act 1983 Sch 1 r 25(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 31(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 27(3).

6 As to the meaning of 'electoral area' see para 10 ante.

7 For the meaning of 'Assembly constituency' in the context of London Authority elections see para 10 note 6 ante.

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 21(3), Sch 2 r 22(3), Sch 3 r 22(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 22(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 23(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 23(3).

9 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(3).

10 Representation of the People Act 1983 Sch 1 r 25(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 21(2), Sch 2 r 22(2), Sch 3 r 22(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 22(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 31(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 27(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 23(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 23(2).

11 Representation of the People Act 1983 Sch 1 r 25(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 21(4), Sch 2 r 22(4), Sch 3 r 22(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 22(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 31(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 27(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 23(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 23(4).

The compartments provided need, however, only afford voters, if careful, reasonable facilities for secrecy: *Nicholson v Wick Magistrates* 1922 SC 374, Ct of Sess.

12 As to local education authorities see EDUCATION vol 15(1) (2006 Reissue) para 20 et seq.

13 Representation of the People Act 1983 Sch 1 r 22(1)(a), (i) (Sch 1 r 22(1)(i) amended by the School Standards and Framework Act 1998 s 140(3), Sch 31); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(1)(a), Sch 2 r 19(1)(a), Sch 3 r 19(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 28(1)(a), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 24(1)(a), (i); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 20(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 20(1)(a). As to such schools as are mentioned in the text see EDUCATION vol 15(1) (2006 Reissue) para 102 et seq.

14 Representation of the People Act 1983 Sch 1 r 22(1)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(1)(b), Sch 2 r 19(1)(b), Sch 3 r 19(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(1)(b); National Assembly for Wales

(Representation of the People) Order 2003, SI 2003/284, Sch 5 para 28(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 24(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 20(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 20(1)(b). In relation to a local authority mayoral election, and any London Authority election, the provision set out in head (2) in the text applies to a room the expense of maintaining which is met by any local authority: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(1)(b), Sch 2 r 19(1)(b), Sch 3 r 19(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(1)(b). At a Welsh Assembly election, the provision set out in head (2) in the text applies to a room the expense of maintaining which is payable wholly or mainly out of public funds: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 28(1)(b).

For the purposes of determining rateable occupation, a hereditament is to be treated as unoccupied if it would otherwise be treated as occupied by reason only, if it is a house, of the use of a room in it by a returning officer for the purpose of taking the poll in a parliamentary or local government election: see the Local Government Finance Act 1988 s 65(6); and RATING AND COUNCIL TAX vol 39(1) (Reissue) para 614. For the meaning of 'hereditament' in this context see RATING AND COUNCIL TAX vol 39(1) (Reissue) para 634 et seq. The Local Government Finance Act 1988 s 65(6) has been applied with slight modification for the purposes of both a Welsh Assembly election (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 146) and a European parliamentary election (see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 125). At a poll consequent on a parish meeting taken on a question of appointment to any office, the use of a room in an unoccupied house for such purpose or purposes as are mentioned in the text does not render a person liable to be rated or to pay any rate for the house (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(3)); and, in relation to a local authority mayoral election and any London Authority election, the use of a room in an unoccupied heridament for such purpose or purposes as are mentioned in the text does not render a person liable to any payment by way of council tax or non-domestic rate in respect of that heridament and any day on which it is so used (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(3), Sch 2 r 19(3), Sch 3 r 19(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(2)).

15 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(1), Sch 2 r 19(1), Sch 3 r 19(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 20(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 20(1).

16 Representation of the People Act 1983 Sch 1 r 22(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 18(2), Sch 2 r 19(2), Sch 3 r 19(2A) (added by Sch 3 r 19(3), (4)); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 19(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 28(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 24(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 20(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 20(2).

At a London Authority election, the provision set out in the text applies only in the case of an election to fill a vacancy in the office of London Mayor: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 19(3).

17 As to the polling stations to be used where polls at elections or referendums are taken together see para 19 ante.

396. Equipment of polling stations. At any election[1], the appropriate returning officer[2] must provide each presiding officer[3] with such number of ballot boxes and ballot papers as in the returning officer's opinion may be necessary[4]. Every ballot box must be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked (or, where the box has no lock, without the seal being broken)[5].

The returning officer also must provide each polling station[6] with:

(1) materials to enable voters to mark the ballot papers[7];

(2) in relation to a parliamentary election or a local government election for a principal area, parish or community, a list consisting of that part of the corresponding number list[8] which contains the numbers (but not the other

unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station[9];

(3) in relation to any election except an election that is mentioned in head (2) above, instruments for stamping on the ballot papers the official mark[10];

(4) copies of the relevant register of electors or such part of it as contains the names of (or, in the case of a parliamentary election, the entries relating to) the electors allotted to the station[11]; and.

(5) the parts of any special lists prepared for the election corresponding to the relevant register of electors or the part of it provided under head (4) above[12].

The following notices must be displayed or exhibited:

(a) a notice in the specified form, giving directions for the guidance of the voters in voting[13], must be printed in conspicuous characters and exhibited inside and outside every polling station[14];

(b) in every compartment of every polling station[15], there must be exhibited the statutory notice which instructs voters how many votes they may give at the election[16]; and

(c) (except at polls consequent on a parish meeting on a question involving appointment to office) the returning officer must also provide each polling station with at least one large version of the ballot paper which must be displayed inside the polling station for the assistance of voters who are partially-sighted[17].

In the case of a London Assembly London members election or European parliamentary election, notice of the death of a candidate must also be displayed[18]; and, at a Welsh Assembly election, the statement of persons nominated must also be printed in conspicuous characters and exhibited inside and outside every polling station[19].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made as to the equipment of polling stations[20].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

2 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante. In the case of a London Authority election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see para 218 note 8 ante), although the Greater London returning officer (for the meaning of which see para 218 note 7 ante) also has duties where specified. For the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is, in relation to both a constituency and regional election, a constituency returning officer (for the meaning of which see para 18 note 2 ante).

3 As to the appointment of presiding officers and their clerks see para 398 post.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 29(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 11(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 24(1), Sch 2 r 25(1), Sch 3 r 25(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 25(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 34(1); European

Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 30(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 26(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 26(1).

At a London Authority ordinary election, the ballot papers must, as the Greater London returning officer may decide, be placed either in a single ballot box or in separate ballot boxes according to whether the votes given on them are cast in the election under the constituency members election rules, the London members election rules or the mayoral election rules (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 6(1)), although it is specified in the mayoral election rules that the same ballot box is to be used at an ordinary election for the ballot papers containing the constituency vote, the London vote and the mayoral vote (Sch 3 r 25(2)). As to the constituency members election rules, the London members election rules and the mayoral election rules see para 388 ante.

At a Welsh Assembly election, the constituency returning officer is responsible for equipping the polling stations: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(1); and note 2 supra. Where at an ordinary election electors are entitled to give two votes the same ballot box must be used for the receipt of ballot papers in respect of votes given at each election: Sch 5 para 34(2).

5 Representation of the People Act 1983 Sch 1 r 29(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(2), Sch 2 r 25(2), Sch 3 r 25(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(2).

6 As to the provision and allotment of polling stations see para 395 ante.

7 Representation of the People Act 1983 Sch 1 r 29(3)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(3)(a), Sch 2 r 25(3)(a), Sch 3 r 25(4)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(3)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(a).

Except at polls consequent on a parish meeting on a question involving appointment to office, the returning officer must also provide each polling station with a device (or devices, for the purposes of a Welsh Assembly election) of such description as may be prescribed for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion: Representation of the People Act 1983 Sch 1 r 29(3A)(b) (r 29(3A) added by the Representation of the People Act 2000 s 13(1), (2)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(4)(b) (Sch 1 r 24(4) substituted by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 25(4)(b) (Sch 2 r 25(4) substituted by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 25(5)(b) (Sch 3 r 25(5) substituted by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(4)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(5)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(5)(b). Under the Representation of the People Act 1983, 'prescribed' means prescribed by regulations: 202(1). As to the making of regulations under the Representation of the People Act 1983 generally see para 24 note 16 ante.

The device must be capable of allowing a ballot paper to be inserted into and removed from it (or attached to and detached from it) easily and without damage to the paper: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 12(1), (2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(a) (Sch 1 r 24(5) added by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 25(5)(a) (Sch 2 r 25(5) added by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 25(6)(a) (Sch 3 r 25(6) added by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(a).

Except in the case of a local government or European parliamentary election, it is specified that on the right-hand side of the device there must be tabs of equal size which:

(1) must all be capable of being positioned on the ballot paper so that each one is above one of the spaces to the right of the particulars of the candidates on which the vote is to be marked (the 'relevant space') (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 12(1), (3), (4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(6), (7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(7), (8));

(2) must each be numbered, with each number on a tab being in raised form and capable of being clearly identified by touch, so that, when the device is positioned over a ballot paper, the number of each tab corresponds to that of the candidate whose particulars are to the left of the relevant space covered by the tab in question (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 12(1), (3), (5), (6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(6), (8), (9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(7), (9), (10)); and

(3) must each be capable of being lifted so as to reveal the relevant space and so that there is sufficient room to allow a voter to mark a cross on that space (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 12(1), (3), (7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(6), (10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(7), (11)).

At a Welsh Assembly election, under head (1) supra, the tabs must be capable of being positioned on the ballot paper so that each one is above one of the spaces, in the case of a constituency election, to the right of the particulars of the candidates or, in the case of a regional election, above the descriptions of the registered political parties or, as the case may be, the particulars of individual candidates, on which the vote is to be marked (the 'relevant space'): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(8).

At a local government or European parliamentary election, instead of heads (1)–(3) supra, it is specified merely that the device must also: (a) keep the ballot paper firmly in place during use (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(b) (as so added), Sch 2 r 25(5)(b) (as so added), Sch 3 r 25(6)(b) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(b)); and (b) provide suitable means for the voter to: (i) identify the spaces on the ballot paper on which he may mark his vote (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(c)(i); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(c)(i) (as so added), Sch 2 r 25(5)(c)(i) (as so added), Sch 3 r 25(6)(c)(i) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(c)(i); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(c)(i)); (ii) identify the individual candidate (or, as the case may be, registered party) to which each such space refers (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(c)(ii); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(c)(ii) (as so added), Sch 2 r 25(5)(c)(ii) (as so added), Sch 3 r 25(6)(c)(ii) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(c)(ii); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(c)(ii)); and (iii) mark his vote on the space he has chosen (European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(9)(c)(iii); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(5)(c)(iii) (as so added), Sch 2 r 25(5)(c)(iii) (as so added), Sch 3 r 25(6)(c)(iii) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(9)(c)(iii); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(9)(c)(iii)).

8 Ie the list prepared, in relation to a parliamentary election, under the Representation of the People Act 1983 Sch 1 r 19A (as added) or, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17 or, in relation to a local government election for a parish or community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17 (see para 392 ante).

In relation to a parliamentary election, the form of the corresponding number list to be prepared by a returning officer for these purposes must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form L2: corresponding number list for use in polling station at parliamentary election taken alone) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(2) (added by SI 2006/2910). When a parliamentary election is combined with another poll under the Representation of the People Act 1985

s 15 (as amended) (see paras 21–22 ante) or under the Local Government Act 2000 s 44(2) (provision for the combination of polls at elections for the return of elected mayors and at elections for the return of elected executive members: see para 26 ante) or under s 45(6) (provision for the combination of polls at referendums with polls at any elections: see para 27 ante), the corresponding number list to be prepared by a returning officer for the purposes of the Representation of the People Act 1983 Sch 1 r 29(3)(e) (as added) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form M2: corresponding number list for use in polling station when parliamentary election combined with a relevant election or referendum) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(4) (added by SI 2006/2910). The regulation refers to polls that are combined under the Local Government Act 2000 s 44(2) or s 44(6), but it is submitted that a reference to s 45(6) is intended. The amendments effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, do not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

For the purposes of local government elections for principal areas, the corresponding number list must be in the appropriate form, or a form to like effect: see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17(2), Appendix of Forms (Form L2: corresponding number list to be used in polling stations at a local government election taken alone); and r 4, Sch 3 Appendix of Forms (Form M2: corresponding number list to be used in polling stations when a local government election is combined with another election/referendum). For the purposes of local government elections for parishes and communities, the corresponding number list must be in the appropriate form, or a form to like effect: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17(2), Appendix of Forms (Form L2: corresponding number list to be used in polling stations at a parish or community election taken alone); and r 4, Sch 3 Appendix of Forms (Form M2: corresponding number list to be used in polling stations when a parish or community election is combined with another election/referendum).

9 Representation of the People Act 1983 Sch 1 r 29(3)(e) (added by the Electoral Administration Act 2006 s 31(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(d). As to security measures associated with the ballot paper see para 392 ante; and as to presiding officers at an election see para 398 post.

Any amendment effected by the Electoral Administration Act 2006 s 31 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

10 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(3)(b), Sch 2 r 25(3)(b), Sch 3 r 25(4)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(3)(b). As to the official mark see para 392 ante.

11 Representation of the People Act 1983 Sch 1 r 29(3)(c) (amended by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 14(1), (4)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(3)(c), Sch 2 r 25(3)(c), Sch 3 r 25(4)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(3)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(b).

For the purposes of a parliamentary election or a local government election for a principal area, parish or community, the reference in head (4) in the text to the copies of the registers of electors includes a reference to copies of any notices issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante), specifying appropriate alterations to the register: Sch 1 r 29(6) (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 34); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(4).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 34 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

12 Representation of the People Act 1983 Sch 1 r 29(3)(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(3)(d), Sch 2 r 25(3)(d), Sch 3 r 25(4)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(3)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(c). The provision set out in head (4) in the text does not apply to polls consequent on a parish meeting on a question involving appointment to office. As to the preparation of special lists as mentioned in the text see paras 378, 386 ante.

13 As to the form giving directions for the guidance of the voters in voting see, in the case of a parliamentary election, the Representation of the People Act 1983 Sch 1 Appendix of Forms (Form of directions for the guidance of the voters in voting (substituted by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 93(1), (3)).

Any amendments effected by the Electoral Administration Act 2006 Sch 1 paras 69, 93 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

In the case of a local government election, see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of directions for the guidance of the voters in voting where the poll is on a question of appointment to an office) (amended by SI 1987/262); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of directions for the guidance of the voters in voting) and r 4, Sch 3 Appendix of Forms (Form of directions for the guidance of the voters in voting) (where a poll is taken together with another relevant election or referendum); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of directions for the guidance of the voters in voting) and r 4, Sch 3 Appendix of Forms (Form of directions for the guidance of the voters in voting) (where a poll is taken together with another relevant election or referendum).

In the case of a London Authority election, notices for the guidance of voters must be prepared by the Greater London returning officer, complying with the requirements of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 9, Sch 12 (added by SI 2004/227), and he must provide the notices to the constituency returning officer to be exhibited outside every polling station and inside every polling station: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(1)(a), (b), (2), (3) (Sch 1 r 24A added by SI 2004/227), Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 25A(1)(a), (b), (2), (3) (Sch 2 r 25A added by SI 2004/227), Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 25A(1)(a), (b), (2), (3) (Sch 3 r 25A added by SI 2004/227). The Greater London returning officer may, in addition, also prepare versions in Braille or languages other than English that are accurate translations of any such notice and provide any such notice upon request to a constituency returning officer, at whose discretion they may be exhibited either outside the polling station or inside the polling station: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(4), (5), (6)(a), (b) (as so added), Sch 2 r 25A(4), (5), (6)(a), (b) (as so added), Sch 3 r 25A(4), (5), (6)(a), (b) (as so added). At a London Authority ordinary election, it is specified that all notices must be in the appropriate form: see Sch 4 r 6(2). Accordingly, see Sch 5 (Form 13: Notices for guidance of voters at ordinary elections (where there are more than two candidates for the office of Mayor); Notice C—for display inside polling stations).

In relation to a local authority mayoral election, see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(11)(a), Appendix of Forms (Form 8: Notice for guidance of voters).

At an ordinary Welsh Assembly election where there are contested elections for an Assembly constituency and for the Assembly electoral region in which the constituency is situated, the notice must be in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Appendix of Forms (Form of directions for guidance of the voters in voting referred to in paragraph 34(12)): Sch 5 para 34(12). Where there is a contested election for an Assembly constituency but there is no such election for the Assembly electoral region in which the constituency is situated, or where there is a contested election for an Assembly electoral region but there is no such election for an Assembly constituency in the Assembly electoral region, the notice must be in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of directions for guidance of the voters in voting referred to in paragraph 34(13) and (14)): Sch 5 para 34(13), (14).

At a European parliamentary election, the notice must in the form specified in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (Form of directions for the guidance of the voters in voting).

In relation to elections taking place in Wales, see the forms prescribed for use in the appropriate language (or languages) in the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt I (directions for the guidance of the voters in voting, cyfarwyddyd i bleidleiswyr wrth bleidleisio); and the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt I (directions for the guidance of the voters in voting, cyfarwyddyd i bleidleiswyr wrth bleidleisio).Where such an election is held together with another election or referendum, see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt 2 (Ffurf cyfarwyddiadau i arwain pleidleiswyr wrth bleidleisio, form of directions for guidance of the voters in voting); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt 2 (Ffurf cyfarwyddiadau i arwain pleidleiswyr wrth bleidleisio, form of directions for guidance of the voters in voting). See also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6, Sch 2 (Form 4: Form of directions for the guidance of the voters in voting; Form 5); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6, Sch 2 (Form 2: Form of directions for guidance of the voters in voting; Form 3: Form of directions for guidance of the voters in voting at combined polls).

14 Representation of the People Act 1983 Sch 1 r 29(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(1)(a), (b) (as added: see note 13 supra), Sch 2 r 25A(1)(a), (b) (as added: see note 13 supra), Sch 3 r 25A(1)(a), (b)) (as added: see note 13 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(11)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(12)–(14); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(6). As to the grounds on which a ballot paper may be rejected during the count see para 434 et seq post; and as to the treatment of rejected votes see para 438 et seq post.

The person who is required or authorised to give or display any document, which under or by virtue of the Representation of the People Act 1983 is required or authorised to be given to voters or displayed in any place for the purposes of a parliamentary or local government election, must, as he thinks appropriate, give or display or otherwise make available in such form as he thinks appropriate the document in Braille or in languages other than English, graphical representations of the information contained in the document and other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information: s 199B(1), (2) (s 199B added by the Electoral Administration Act 2006 s 36). Such a person must also, as he thinks appropriate, make available the information contained in the document in such audible form as he thinks appropriate: Representation of the People Act 1983 s 199B(3) (as so added). Although these provisions do not apply to either the nomination paper or the ballot paper (s 199B(4) (as so added)), the returning officer at a parliamentary election or a local government election may cause to be displayed at every polling station in the election an enlarged sample copy of the ballot paper (s 199B(5) (as so added)); and he must provide at every polling station in the election an enlarged handheld sample copy of the ballot paper for the assistance of voters who are partially sighted (s 199B(7) (as so added)). As to the form of the sample copies see s 199B(6), (8) (as so added). Any amendment effected by the Electoral Administration Act 2006 s 36 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

At a local government election for a principal area, parish or community, the returning officer, and at a European parliamentary election, the local returning officer, may also provide copies in Braille or in languages other than English as he considers appropriate, that are an accurate translation or reproduction of the notice referred to in head (a) in the text: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(7).

15 As to the provision of compartments in polling stations see para 395 ante.

16 Representation of the People Act 1983 Sch 1 r 29(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(5) (amended by SI 1987/262); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(1)(c) (as added: see note 13 supra), Sch 2 r 25A(1)(c) (as added: see note 13 supra), Sch 3 r 25A(1)(c) (as added: see note 13 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(11)(b), Appendix of Forms (Form 9: notices for display in polling booths (Notice A—for use where there are only two mayoral candidates, Notice B—for use where there are three or more candidates)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(15), (16); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(7); Local Elections

(Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(8).

In the case of a London Authority election, notices for the guidance of voters must be prepared by the Greater London returning officer ('GLRO'), complying with the requirements of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 9, Sch 12 (added by SI 2004/227), and he must provide the notices to the constituency returning officer ('CRO') to be exhibited in every compartment of the polling station: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(1)(c), (2), (3) (as so added), Sch 2 r 25A(1)(c), (2), (3) (as so added), Sch 3 r 25A(1)(c), (2), (3) (as so added). The GLRO may, in addition, also prepare versions in Braille or languages other than English that are accurate translations of any such notice and provide any such notice upon request to a CRO, at whose discretion they may be exhibited in every compartment of the polling station: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24A(4), (5), (6)(c) (as so added), Sch 2 r 25A(4), (5), (6)(c) (as so added), Sch 3 r 25A(4), (5), (6)(c) (as so added).

In relation to elections taking place in Wales, see also the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt III (voting compartment notice, hysbysiad cabanau pleidleisio); the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt III (voting compartment notice, hysbysiad cabanau pleidleisio); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6, Sch 2 (Form 4: Form of words prescribed by rule 29(5)).

17 Representation of the People Act 1983 Sch 1 r 29(3A)(a) (as added: see note 7 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 24(4)(a) (as substituted: see note 7 supra), Sch 2 r 25(4)(a) (as substituted: see note 7 supra), Sch 3 r 25(5)(a) (as substituted: see note 7 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 25(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(4)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(5)(a).

18 At a London members election, if, before the date appointed for the poll, proof is given to the satisfaction of the GLRO (see note 16 supra) that one of the persons named or to be named as an individual candidate in the ballot papers, or whose name appears on a party list, has died, then the GLRO must inform each CRO (see note 16 supra) of that fact (see para 270 ante) and the CRO must provide each polling station with a notice of the death of any such person: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 rr 13(3), 25(3)(e). In the case of a European parliamentary election, where proof has been given to the returning officer's satisfaction of the death of a candidate on a registered party's list or an individual candidate, he must request each local returning officer to provide each presiding officer with a sufficient number of notices to this effect for display in every compartment of every polling station: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 30(8).

19 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 34(17). As to the statement of persons nominated see para 272 ante.

20 As to the equipment of polling stations to be used where polls at elections or referendums are taken together see para 19 ante.

397. Loan of equipment provided for elections. Any ballot boxes, fittings and compartments provided for parliamentary elections[1] out of money provided by Parliament may, on request, be lent to: (1) the returning officer at a local government election[2]; (2) the returning officer at a poll consequent on a parish meeting on a question involving an appointment to office[3]; or (3) a constituency returning officer at a Welsh Assembly election[4], on such terms and conditions as the Secretary of State may determine[5].

Any ballot boxes, fittings and compartments provided by, or belonging to, a local authority within the meaning of the Local Government Act 1972[6], must, on request, and if not required for immediate use by that authority, be lent to the officer listed under head (1), (2) or (3) above at an election held under that Act, or at a poll consequent on a parish meeting on a question involving appointment to office, or at a Welsh Assembly election, on such terms and conditions as may be agreed[7].

1 As to the provision and allotment of polling stations see para 395 ante; and as to the equipment of polling stations see para 396 ante. For the meaning of 'parliamentary election' see para 9 ante.

2 For the meaning of 'local government election' see para 10 ante. As to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante.
3 As to polls consequent on a parish meeting on a question involving appointment to office see para 207 et seq ante; and as to the returning officer at such a poll see para 361 ante.
4 For the meaning of 'constituency returning officer' in the context of Welsh Assembly elections see para 18 note 2 ante.
5 Representation of the People Act 1983 s 47(1) (amended by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 4); Local Government Act 1972 s 99, Sch 12 para 21(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 23(1). As to the Secretary of State see para 2 ante. As from a day to be appointed under the Political Parties, Elections and Referendums Act 2000 s 163(2), the reference in the Representation of the People Act 1983 s 47(1) (as amended) to the Secretary of State is repealed and a reference to the Electoral Commission added in its place: see s 47(1) (as so amended; prospectively further amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (4)). At the date at which this volume states the law, no such day had been appointed. As to the Electoral Commission see para 31 et seq ante.
6 For the meaning of 'local authority' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.
7 Representation of the People Act 1983 s 47(2) (amended by the Education Reform Act 1988 s 237, Sch 13 Pt I); Local Government Act 1972 Sch 12 para 21(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 23(2).

398. Appointment of presiding officers and their clerks by returning officer. At an election[1], the appropriate returning officer[2] must appoint and pay[3] a presiding officer to attend at each polling station[4]. The returning officer must also appoint and pay such clerks as may be necessary[5] for the purposes of the election[6]. However, the returning officer may not appoint a person who has been employed by, or on behalf of, a candidate in or about the election[7]. The returning officer may, if he thinks fit, preside at a polling station[8].

A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised to do at a polling station except order the arrest, exclusion or removal of any person from the polling station[9].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the appointment of presiding officers and their clerks[10].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered and, for this purposes, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.
2 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see para 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see para 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, 'appropriate returning officer' means, in relation to a constituency election, a constituency returning officer (for the meaning of which see para 18 note 2 ante) and, in

relation to a regional election, a regional returning officer (for the meaning of which see para 18 note 2 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); and para 242 note 7 ante.

3 At a poll consequent on a parish meeting, the remuneration of a presiding officer and clerks is discretionary: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 10(1).

4 Representation of the People Act 1983 s 23(1), Sch 1 r 26(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 22(1), Sch 2 r 23(1), Sch 3 r 23(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 23(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 32(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 28(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 24(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 24(1).

For the purposes only of a Welsh Assembly regional election, a presiding officer is not appointed to attend at each polling station because votes are cast at the same time and place as a constituency election; however, clerks may be appointed to assist the regional returning officer in his duties (see the text and notes 5–6 infra): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(2).

An oral appointment of a presiding officer is apparently sufficient: *R v Garvey* (1887) 16 Cox CC 252.

5 Appointments are made of clerks as mentioned in the text to assist the presiding officer and to assist in counting the votes. In practice the limits set of maximum charges, to which a returning officer is subject in claiming his expenses, restrict the number of clerks who are appointed: see para 357 et seq ante.

6 Representation of the People Act 1983 Sch 1 r 26(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(1), Sch 2 r 23(1), Sch 3 r 23(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(1).

In the case of a London mayoral election, the constituency returning officer may also employ such technical assistants as may be necessary for the purposes of the election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 23(1).

7 Representation of the People Act 1983 Sch 1 r 26(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(1), Sch 2 r 23(1), Sch 3 r 23(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(1).

In the case of a London Assembly London members election, the restriction as mentioned in the text applies to any person who has been employed in or about the election by or on behalf of a candidate or a registered party which has submitted a party list: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 23(1). In the case of a Welsh Assembly constituency or regional election, the restriction applies to any person who has been employed either by, or on behalf of, an individual or party list candidate, or by a registered political party, in or about the election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(1), (2). In the case of a European parliamentary election, the restriction applies to any person who has been employed by or on behalf of a registered party or individual candidate in or about the election: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(1).

8 Representation of the People Act 1983 Sch 1 r 26(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(2), Sch 2 r 23(2), Sch 3 r 23(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(2). The provisions of the appropriate elections rules relating to a presiding officer apply to an appropriate returning officer presiding as mentioned in the text, with the necessary modifications as to things to be done by the appropriate returning officer to the presiding officer or by the presiding officer to the appropriate returning officer: Representation of the People

Act 1983 Sch 1 r 26(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(2), Sch 2 r 23(2), Sch 3 r 23(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(2). In the case of a Welsh Assembly election, it is the constituency returning officer who may, if he thinks fit, preside at a polling station; and the provisions of the appropriate elections rules relating to a presiding officer apply to a constituency returning officer so presiding with the necessary modifications as to things to be done by the constituency returning officer to the presiding officer or by the presiding officer to the constituency returning officer: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(3).

9 Representation of the People Act 1983 Sch 1 r 26(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 22(3), Sch 2 r 23(3), Sch 3 r 23(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 23(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 32(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 28(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 24(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 24(3). As to the presiding officer's duty to keep order in a polling station see para 401 post.

10 As to polls at elections or referendums which are taken together see para 16 et seq ante.

399. Appointment of polling and counting agents by candidate or election agent. Before the commencement of the poll at an election[1], each candidate[2] (or, as the case may be, election agent)[3] may appoint: (1) polling agents to attend at polling stations for the purpose of detecting personation[4]; and (2) counting agents to attend at the counting of the votes (or, in the case of a European parliamentary election, at the verification of the ballot paper accounts)[5]. However, the number of counting agents to attend at the counting of the votes may be limited by the appropriate returning officer[6] so that the number is the same in the case of each candidate and the number allowed to a candidate is not (except in special circumstances) less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates[7].

Written notice of the appointment of polling or counting agents, stating the names and addresses of the persons appointed, must be given by the candidate (or, as the case may be, the election agent) to the returning officer[8]: (a) in the case of a parliamentary or Welsh Assembly election, not later than the second day before the day of the poll[9]; (b) in the case of a local government election, local authority mayoral election or European parliamentary election, not later than the fifth day before the day of the poll[10]; or (c) in the case of a poll consequent on a parish meeting on a question involving appointment to office, not later than the third day before the day of the poll[11]. If an agent dies or becomes incapable of acting, the candidate may appoint another agent in his place and must forthwith give to the returning officer written notice of the name and address of the agent so appointed[12].

A candidate may do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do or may assist any such agent in doing any such act or thing[13]. At elections where election agents may be appointed, a candidate's election agent may do or assist in doing anything which a polling or counting agent of his is authorised to do, and anything required or authorised to be done in the presence of the polling or counting agents may be done in the presence of any candidate's election agent instead of the polling agent or counting agents[14].

Where any act or thing is required or authorised to be done by the appropriate rules in the presence of the polling or counting agents, the non-attendance of any agent or agents at the time and place appointed for the purpose does not, if the act or thing is otherwise duly done, invalidate the act or thing done[15].

Any notice required to be given to a counting agent by the returning officer may be delivered at, or sent by post to, the address stated in the notice of appointment[16].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the appointment of polling and counting agents[17].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

2 For the meaning of 'candidate' generally see para 237 ante; but see the text and note 3 infra.

3 At elections where election agents may be appointed, except at a local government election for a principal area, any appointment authorised by the rule set out in the text may be made and the notice of appointment given to the returning officer by the candidate's election agent, instead of by the candidate: Representation of the People Act 1983 s 23(1), Sch 1 r 30(5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 25(8), Sch 2 r 26(9), Sch 3 r 26(9); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 26(9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 35(7). In the case of a London Assembly London members election, the reference in the text is to each individual candidate and the election agent of each list candidate (but not to a list candidate): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 26(1). As to party lists of candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) para 98; and as to individual candidates to be London members see LONDON GOVERNMENT vol 29(2) (Reissue) para 99.

In the case of a Welsh Assembly regional election, the reference in the text is to each individual candidate and each election agent for a group of party list candidates, in relation to each Assembly constituency in the Assembly electoral region: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(3). For the meanings of 'Assembly constituency', 'Assembly electoral region' and 'regional election', in relation to a Welsh Assembly election, see para 3 note 1 ante. For the meaning of 'individual candidate', in relation to a Welsh Assembly election, and for the meaning of references to a group of party list candidates see para 237 note 23 ante. As to the appointment of election agents see para 238 et seq ante.

In the case of a European parliamentary election, the reference in the text is to an individual candidate or the election agent (or sub-agent) of a registered party standing nominated or any person authorised in writing by such an agent or that candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 31(1). In the context of a European parliamentary election, for the meaning of 'registered party' see para 237 note 30 ante; and for the meaning of 'individual candidate' see para 237 note 32 ante. As to the submission by a registered party of lists of candidates to be members of the European Parliament ('MEPs') see para 235 ante.

4 Representation of the People Act 1983 Sch 1 r 30(1)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 12(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(1), Sch 2 r 26(1), Sch 3 r 26(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(1)(a), (3)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 27(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 27(1)(a).

At a local government election or local authority mayoral election, the appointment of a polling agent may be by or on behalf of more than one candidate: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(2), Sch 2 r 26(2), Sch 3 r 26(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(2).

At a poll consequent on a parish meeting on a question involving appointment to office, each candidate may appoint only one polling agent to attend at each polling station for the purpose mentioned in the text: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(1)(a).

As to the offence of personation (which is also a corrupt practice) see para 733 post.

5 Representation of the People Act 1983 Sch 1 r 30(1)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(1)(b), Sch 2 r 26(1), Sch 3 r 26(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(1)(b), (3)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(1)(b). In the case of a London Assembly London members election, the reference is to the attendance of counting agents at the local count: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 26(1)(b).

At a local government election or local authority mayoral election, the appointment of a counting agent may be by or on behalf of more than one candidate: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(2), Sch 2 r 26(2), Sch 3 r 26(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(2). At a poll consequent on a parish meeting on a question involving appointment to office each candidate may appoint only one counting agent to attend for the purpose mentioned in the text: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(1)(b). At a London Assembly London members election or London mayoral or European parliamentary election, for each local count one (but no more than one) counting agent of each registered party or individual candidate may be authorised by the terms of his appointment to require a recount at that count: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 26(2A) (added by SI 2004/227); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 26(2A) (added by SI 2004/227); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(2).

At a Welsh Assembly regional election, where no candidate or election agent is present on the completion of the counting or any recount of votes, the right conferred on that person (if he had been present) to request a recount under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 52 (see para 465 post) may be exercised by a counting agent for an individual candidate or a group of party list candidates so present provided that the counting agent has been appointed for these purposes by a person who also has the right to appoint a counting agent; but not more than one such counting agent for the same individual candidate or group of party list candidates may be appointed for these purposes in relation to the same Assembly constituency: Sch 5 para 52(3). Notice in writing of such an appointment, stating the name and address of the person appointed, must be given by the person making the appointment to the constituency returning officer and must be so given at the same time as notice is given to that returning officer of that person's appointment as counting agent under Sch 5 para 35(5), (6) (see the text and notes 8–12 infra): Sch 5 para 52(4).

6 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see para 218 note 8 ante); and in the case of an election for the return of London members of the London Assembly and for the return of an elected Mayor of London, it is the Greater London returning officer (for the meaning of which see para 218 note 7 ante). For the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is, in relation to both a constituency and regional election, a constituency returning officer (for the meaning of which see para 18 note 2 ante).

At a local government election or local authority mayoral election, not more than four polling agents may be appointed to attend at any particular polling station unless the returning officer by notice allows otherwise: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(3), Sch 2 r 26(3), Sch 3 r 26(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(3). If, at such an election, the number of polling agents appointed to attend at a polling station exceeds the permitted number, the returning officer must determine which agents are permitted to attend by lot and only the agents on whom the lot falls are deemed to be duly

appointed: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(3), Sch 2 r 26(4), Sch 3 r 26(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(3). At a poll consequent on a parish meeting on a question involving appointment to office, each candidate may appoint only one agent for each purpose: see notes 4–5 supra.

7 Representation of the People Act 1983 Sch 1 r 30(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(4), Sch 2 r 26(5), Sch 3 r 26(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(2), (4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(4). For the purposes of para 400 et seq post, references to polling and counting agents must be taken as references to agents whose appointments have been duly made and notified and, where the number of agents is restricted, who are within the permitted number: Representation of the People Act 1983 Sch 1 r 30(6); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(9), Sch 2 r 26(10), Sch 3 r 26(10); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(10); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(7). At a poll consequent on a parish meeting on a question involving appointment to office, each candidate may appoint only one agent for each purpose: see notes 4–5 supra.

At a local government election or local authority mayoral election, for the purposes of the calculation required as mentioned in the text, a counting agent who has been appointed for more than one candidate (as to which see note 4 supra) is a separate agent for each of the candidates by whom he has been appointed: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(5), Sch 2 r 26(6)(b), Sch 3 r 26(6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(4). For the purposes of the calculation in relation to a London Assembly London members election, the calculation must also take into account a counting agent who has been appointed for more than one list candidate and is deemed for these purposes to be appointed for all the candidates on the list: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 26(6)(a).

In the case of a Welsh Assembly regional election, the reference is to the constituency returning officer, in relation to the Assembly constituency for which he is the returning officer, limiting the number of counting agents to being the same in the case of each individual candidate or election agent for a group of party list candidates, and limiting the number allowed to an individual candidate or election agent (except in special circumstances) to being not less than the number obtained by dividing the number of clerks employed on the counting by the total of the number of individual candidates and registered political parties which have submitted to a party list: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(4).

At a European parliamentary election, the reference is to the local returning officer limiting the number of counting agents to being the same in the case of each individual candidate or each registered party standing nominated, and limiting the number allowed to such an individual candidate or such a registered party standing nominated (except in special circumstances) to being not less than the number obtained by dividing the number of clerks employed on the verification of the ballot paper accounts or on the counting of the votes by the number obtained by adding the number of individual candidates and registered parties which stand nominated: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(3).

8 Representation of the People Act 1983 Sch 1 r 30(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(6), Sch 2 r 26(7), Sch 3 r 26(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(5).

9 Representation of the People Act 1983 Sch 1 r 30(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(5). As to the date of the poll at a parliamentary general election or by-election see para 202 ante; and as to the date of the poll at elections to the National Assembly for Wales (including elections to fill vacancies in an Assembly constituency) see paras 220–221 ante. As to the computation of time for the purposes of a parliamentary election see para 203 note 1 ante; and for the purposes of a Welsh Assembly election see para 223 note 1 ante.

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(6), Sch 2 r 26(7), Sch 3 r 26(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(5). As to the date of the poll at local government elections (including elections to fill vacancies) see paras 213–216 ante; as to date of elections for the return of a local authority mayor see para 205 ante; and as to the date of the poll at a European parliamentary election see para 229 ante. As to the computation of time for the purposes of a local government election see para 218 ante; and for the purposes of a European parliamentary election see para 230 note 1 ante.

11 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(2). As to the date of the poll consequent on a parish meeting on a question involving appointment to office see para 214 ante. As to the computation of time for the purpose of such a poll see para 219 note 5 ante.

12 Representation of the People Act 1983 Sch 1 r 30(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(7), Sch 2 r 26(8), Sch 3 r 26(8); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(6).

13 Representation of the People Act 1983 Sch 1 r 30(8); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(6); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(11), Sch 2 r 26(12), Sch 3 r 26(12); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(12); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(10); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(9); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(9).

14 Representation of the People Act 1983 Sch 1 r 30(9); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(12), Sch 2 r 26(13), Sch 3 r 26(13); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(13); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(11); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(9); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(10).

In the case of a Welsh Assembly election, the reference in the text is to the election agent for an individual candidate or for a group of party list candidates: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(11).

In the case of a European parliamentary election, the reference in the text is to an election agent (or sub-agent) of a registered party standing nominated or the election agent (or sub-agent) of an individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(9).

15 Representation of the People Act 1983 Sch 1 r 30(10); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(7); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(13), Sch 2 r 26(14), Sch 3 r 26(14); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(14); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(12); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(10); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(11); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(10).

16 Representation of the People Act 1983 Sch 1 r 30(7); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 12(5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 25(10), Sch 2 r 26(11), Sch 3 r 26(11); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 26(11); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 35(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 31(7); Local Elections (Principal Areas) (England

and Wales) Rules 2006, SI 2006/3304, Sch 2 r 27(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 27(8).

17 As to polls at elections or referendums which are taken together see para 16 et seq ante.

400. Sealing of ballot boxes. Immediately before the commencement of the poll, the presiding officer[1] must show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and must then lock it up (if it has a lock) and in any case place his seal on it in such manner as to prevent its being opened without breaking the seal, and must place it in his view for the receipt of ballot papers, and keep it so locked and sealed (or keep it so sealed, as the case may be)[2].

1 As to the presiding officer see para 398 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 34; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 16; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 29, Sch 2 r 30, Sch 3 r 30; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 30; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 39; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 35; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 32; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 32.

At a London Assembly election and at a Welsh Assembly election, where candidates may have more than one vote to cast (see paras 368–369 ante), this provision applies to each ballot box proposed to be used for the purposes of the poll: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 29, Sch 2 r 30, Sch 3 r 30; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 39.

401. Keeping of order in polling station; adjournment in case of riot. It is the duty of the presiding officer[1] to keep order at his polling station[2]. If a person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by a constable in or near that station, or by any other person authorised in writing by the appropriate returning officer[3] to remove him; and the person so removed may not, without the permission of the presiding officer, again enter the polling station during the day[4]. Any person so removed, may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant[5]. However, the powers of keeping order so conferred are not to be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station[6].

Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer must adjourn the proceedings until the following working day[7] and forthwith give notice to the appropriate returning officer[8]. The hours of the poll on the day to which it is adjourned are the same as for the original day and references to the close of the poll are to be construed accordingly[9].

1 As to the presiding officer see para 398 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 33(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 15(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 28(1), Sch 2 r 29(1), Sch 3 r 29(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 29(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 38(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 34(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 31(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 31(1). As to polling stations see para 348 et seq ante.

3 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. In the case of European

parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante. In the case of a London Authority election, and for the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante; and for the meaning of which in relation to a Welsh Assembly election see para 18 note 2 ante). As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see para 18 ante. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

4 Representation of the People Act 1983 Sch 1 r 33(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 28(2), Sch 2 r 29(2), Sch 3 r 29(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 29(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 38(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 34(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 31(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 31(2). The power to order the removal of any person may be exercised only by the presiding officer and not by one of the clerks appointed to assist him: see para 398 ante.

5 Representation of the People Act 1983 Sch 1 r 33(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 28(3), Sch 2 r 29(3), Sch 3 r 29(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 29(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 38(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 34(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 31(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 31(3).

6 Representation of the People Act 1983 Sch 1 r 33(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 28(4), Sch 2 r 29(4), Sch 3 r 29(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 29(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 38(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 34(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 31(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 31(4).

7 As to the computation of time for the purposes of a parliamentary election see para 203 note 1 ante; for the purposes of a local government election see para 218 ante; for the purposes of a poll consequent on a parish or community meeting see para 219 note 5 ante; for the purposes of a Welsh Assembly election see para 223 note 1 ante; and for the purposes of a European parliamentary election see para 230 note 1 ante.

8 Representation of the People Act 1983 Sch 1 r 42(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 24(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 37(1), Sch 2 r 38(1), Sch 3 r 38(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 38(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 47(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 43(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 42(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 42(1). In the case of a Welsh Assembly regional election, the reference is to notice being given, in the case of an ordinary election where voters are entitled to give two votes at the polling station, to the constituency and to the regional returning officer, but otherwise, in the case of constituency election, to the constituency returning officer or, in the case of a regional election, to the constituency returning officer for the Assembly constituency in which the polling station is situated and to the regional returning officer: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 47(1). For the meaning of 'regional returning officer' see para 18 note 2 ante. Apart from this one reference, the appropriate returning officer in this context is the constituency returning officer: see note 3 supra.

9 Representation of the People Act 1983 Sch 1 r 42(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 24(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 37(2), Sch 2 r 38(2), Sch 3 r 38(2); Local Authorities (Mayoral Elections) (England

and Wales) Regulations 2002, SI 2002/185, Sch 1 r 38(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 47(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 43(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 42(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 42(2). As to the normal procedure on close of poll see para 410 post. In relation to a London Authority election, as soon as practicable after being informed of the adjournment of a poll, the constituency returning officer must inform the Greater London returning officer of that fact and of the cause of its adjournment: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 37(3), Sch 2 r 38(3), Sch 3 r 38(3). For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

402. Admission to polling station. The presiding officer[1] must regulate the number of voters[2] to be admitted to the polling station at the same time[3]. He must exclude all other persons[4] except the candidates (and, at elections where election agents are appointed, their election agents)[5], the polling agents appointed to attend at the polling station[6], the clerks appointed to attend the polling station[7], the constables on duty, the companions of voters with disabilities and (in the case of a parliamentary election, or at a local government election for a principal area, parish or community) persons who are entitled to attend by virtue of any of the provisions[8] which allow Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices[9].

Each voter must vote at the polling station allotted to him[10] with the exception of constables on duty and persons employed by the appropriate returning officer[11] in connection with the election, who may be admitted to vote in person elsewhere than at his own polling station, but only on production and surrender of a certificate as to his employment which must be in the prescribed form, or a form to like effect[12]. The certificate must be signed by an officer of police of or above the rank of inspector or by the returning officer, as the case may be[13]. The certificate when surrendered must forthwith be cancelled[14].

The returning officer must make such arrangements as he thinks fit to ensure that every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter who has an incapacity or as a constable on duty there) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance[15].

1 As to the presiding officer see para 398 ante.

2 Ie, in the case of a parliamentary election, or at a local government election for a principal area, parish or community, the total number of voters and persons under the age of 18 who accompany them: see the Representation of the People Act 1983 s 23(1), Sch 1 r 32(1A) (as added); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 30(2); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 30(2).

3 Representation of the People Act 1983 Sch 1 r 32(1A) (added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 84); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 14; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 27(1), Sch 2 r 28(1), Sch 3 r 28(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 28(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 37(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 33(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(2).

4 Ie all persons other than the voters and, in the case of a parliamentary election, or at a local government election for a principal area, parish or community, the persons under the age of 18 who accompany them to the polling station: see the Representation of the People Act 1983 Sch 1 r 32(1) (as substituted: see note 9 infra); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(1); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(1).

5 There is no provision for election agents at a poll consequent on a parish meeting on a question involving appointment to office but, where a poll is taken on such a question, the candidates may be

accompanied by their spouses or civil partners: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14 (amended by SI 2005/2114). As to the appointment of election agents see para 238 et seq ante.

At a Welsh Assembly regional election, it is specified that not more than one party list candidate may be admitted at the same time to a polling station on behalf of the same group of party list candidates: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(2).

At a European parliamentary election, the reference is to the candidates and the election agents of any registered party standing nominated and any individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(1).

6 This provision implies that polling agents are appointed to attend specific polling stations. As to the appointment of polling agents see para 399 ante. Not more than one polling agent may be admitted at the same time to a polling station on behalf of the same candidate: Representation of the People Act 1983 Sch 1 r 32(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(2), Sch 2 r 28(2), Sch 3 r 28(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(3). At a Welsh Assembly election, it is specified that not more than one polling agent is to be admitted at the same time to a polling station on behalf of the same individual candidate or, at a regional election, on behalf of the same group of party list candidates: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(3). At a European parliamentary election, it is specified that not more than one polling agent is to be admitted at the same time to a polling station on behalf of the same registered party standing nominated and any individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(2). At a poll consequent on a parish or community meeting, a candidate may appoint only one polling agent: see para 399 ante.

7 See para 398 ante. In the case of a London Assembly London members election, technical assistants may attend as well as clerks: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 28(1).

8 Ie by virtue of any of the Political Parties, Elections and Referendums Act 2000 ss 6A–6D (as added) (see para 48 ante).

9 Representation of the People Act 1983 Sch 1 r 32(1) (substituted by the Electoral Administration Act 2006 Sch 1 paras 69, 84); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14 (as amended: see note 5 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(1), Sch 2 r 28(1), Sch 3 r 28(1) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(1). As to the Electoral Commission see para 31 et seq ante. As to the companions of voters with disabilities see para 407 post.

At a Welsh Assembly election, the list of people not to be excluded also includes, in the case of a constituency election, the constituency returning officer and, in the case of a regional election, the regional returning officer or the constituency returning officer for the Assembly constituency in which the polling station is situated: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(1). For the meanings of 'constituency returning officer' and 'regional returning officer' for the purposes of elections for the return of members of the National Assembly for Wales see para 18 note 2 ante.

For the purposes of a London Authority election or European parliamentary election, the list of people not to be excluded also includes authorised representatives of the Electoral Commission (as to which see para 48 ante): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(1), Sch 2 r 28(1), Sch 3 r 28(1) (all as so amended); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(1).

10 As to the manner of voting at elections see para 368 ante.

11 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante. In the case of a London Authority election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see para 218 note 8 ante).

12 Representation of the People Act 1983 Sch 1 r 32(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(3), Sch 2 r 28(3), Sch 3 r 28(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(4); European

Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(4). There is no such provision at a poll consequent on a parish meeting.

For the purposes of the Representation of the People Act 1983, 'prescribed' means prescribed by regulations: s 202(1). As to the making of regulations under the Representation of the People Act 1983 generally see para 24 note 16 ante. As to the regulations made see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63(1), Sch 3 (Form F: certificate of employment). In relation to a local government election for a principal area see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of certificate of employment) and r 4, Sch 3 Appendix of Forms (Form of certificate of employment) (where such a poll is taken together with another relevant election or referendum); in relation to a local government election for a parish or community council, see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of certificate of employment) and r 4, Sch 3 Appendix of Forms (Form of certificate of employment) (where such a poll is taken together with another relevant election or referendum); and, in relation to an Authority election, see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 (Form 14: certificate of employment). In relation to a local authority mayoral election, see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 10: certificate of employment). In relation to a Welsh Assembly election, see the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(2), Sch 2 para 13, Appendix of Forms (Form of certificate of employment). The certificate must be signed, in the case of a constable, by an officer of a police force of or above the rank of inspector: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 2 para 13. In relation to a European parliamentary election, see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (certificate of employment).

For the purposes of elections which take place in Wales see also the forms issued partly in English and partly in Welsh in the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 5, Sch 1 (Form 1: certificate of employment); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4–5, Sch 1 (Form 1: certificate of employment). Where an election in Wales is held together with another election or referendum see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt I (Form of certificate of employment, ffurflen tystysgrif cyflogaeth); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt I (Form of certificate of employment, ffurflen tystysgrif cyflogaeth).

13 Representation of the People Act 1983 Sch 1 r 32(3); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(3), Sch 2 r 28(3), Sch 3 r 28(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(4).

14 Representation of the People Act 1983 Sch 1 r 32(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 27(4), Sch 2 r 28(4), Sch 3 r 28(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 28(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 37(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 33(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 30(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 30(5).

15 See paras 390 ante, 742–744 post.

403. Questions to be put to person applying for a ballot paper. The presiding officer[1] may, and, if required by a candidate or his election or polling agent[2], must, put to any person applying for a ballot paper or applying as proxy[3] at the time of his application, but not afterwards, any of the questions that are so prescribed[4]. A ballot paper must not be delivered to any person required to answer any of the questions so prescribed unless he has answered the questions or question satisfactorily[5]. No inquiry, except as so authorised, is permitted as to the right of any person to vote[6]. Where the

poll at an election is taken together with the poll at another election or referendum, special provision is made for the questions that may be put to a person applying for a ballot paper[7].

If any person knowingly and wilfully makes a false answer to any of the questions so prescribed, he is guilty of an indictable offence and may be punished accordingly[8].

1 As to the presiding officer see para 398 ante.

2 There is no provision for election agents at parish or community council elections (see para 238 note 3 ante) or at a poll consequent on a parish meeting on a question involving appointment to office. As to polling agents see para 399 ante. At a European parliamentary election, the reference is to a candidate or the election or polling agent of a registered party standing nominated or of a individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 36(1).

3 There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office. As to voting by proxy see para 371 et seq ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 35(1) (Sch 1 r 35 substituted by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 74); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 17(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 30(1), (2), Sch 2 r 31(1), (2), Sch 3 r 31(1), (2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 31(1), (2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 40(1), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 36(1), (2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 33(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 33(1). The function set out in the text may be discharged by a clerk appointed to assist the presiding officer: see para 398 ante.

The prescribed questions are set out, in relation to a parliamentary election, in the Representation of the People Act 1983 Sch 1 r 35(1) (as substituted) and the questions that must be put by the presiding officer if the candidate or his election or polling agent so requires are marked therein by a letter 'R': Sch 1 r 35(1) (as so substituted). In the case of an elector who is added to the register in pursuance of a notice issued under s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante), the references to reading from the register that are made in the instructions to the presiding officer must be taken as references to reading from the notice: see Sch 1 r 35(2) (as so substituted).

In relation to a local government election for a principal area, the specified questions are set out in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 33(1) and the questions that must be put by the presiding officer if the candidate or his election or polling agent so requires are marked therein by a letter 'R': Sch 2 r 33(1). In relation to a local government election for a parish or community council, the specified questions are set out in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 33(1) and the questions that must be put by the presiding officer if the candidate or his election or polling agent so requires are marked therein by a letter 'R': Sch 2 r 33(1). In the case of an elector at a local government election for a principal area, parish or community who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added), the references to reading from the register that are made in the instructions to the presiding officer must be taken as references to reading from the notice: see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 33(2); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 33(2). In relation to a poll consequent on a parish meeting where the poll is on a question of appointment to an office see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(1). In relation to a London Authority election see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 30(1), (2), Sch 2 r 31(1), (2), Sch 3 r 31(1), (2) (Sch 1 r 30(2), Sch 2 r 31(2), Sch 3 r 31(2) amended by SI 2005/2114). In relation to a local authority mayoral election see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 31(1), (2) (Sch 1 r 31(2) amended by SI 2005/2114).

In relation to a Welsh Assembly election, the prescribed questions are set out in English and in Welsh: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 40(1), (3). Where at an ordinary election a voter is entitled to give two votes at the polling station and where the presiding officer has asked any of the questions that apply generally, further questions that may be asked are set out, in the case of a person applying for a ballot paper, in Sch 5 para 40(2); and, in the case of a person applying as proxy, in Sch 5 para 40(4)–(6) (Sch 5 para 40(5), (6) amended by SI 2005/2114).

In relation to a European parliamentary election, the prescribed questions are set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 36(1), (2) (Sch 1 r 36(2) amended by SI 2005/2114).

For the purposes of elections which take place in Wales see also the form of the questions in Welsh set out in the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt I (Questions to be put to a person applying as an elector for a ballot paper, Questions to be put to a person applying as a proxy for a ballot paper, Further questions to be put to a person applying as a proxy for a ballot paper) (amended by SI 2005/2114); and the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt I (Questions to be put to a person applying as an elector for a ballot paper, Questions to be put to a person applying as a proxy for a ballot paper, Further questions to be put to a person applying as a proxy for a ballot paper) (amended by SI 2005/2114). Where an election in Wales is held together with another election or referendum see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt I (Questions to be put to a person applying as an elector for a ballot paper, Questions to be put to a person applying as a proxy for a ballot paper, Further questions to be put to a person applying as a proxy for a ballot paper) (amended by SI 2005/2114); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt I (Questions to be put to a person applying as an elector for a ballot paper, Questions to be put to a person applying as a proxy for a ballot paper, Further questions to be put to a person applying as a proxy for a ballot paper) (amended by SI 2005/2114). See also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, arts 4–5, Sch 1 (Form 2: form of words prescribed by sub-paragraph (i) of rule 36(1)(a); Form 3: form of words prescribed by sub-paragraph (i) of rule 36(1)(b); Form 4: form of words for first question prescribed by rule 36(2)) (Form 4 amended by SI 2005/2114); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4–5, Sch 1 (Form 2: form of words prescribed by rule 35(1)(a)(ii); Form 3: form of words prescribed by rule 35(1)(b)(i); Form 4: form of words prescribed by rule 35(2)) (Form 4 amended by SI 2005/2114).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 74 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 Sch 1 r 35(3) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 30(3), Sch 2 r 31(3), Sch 3 r 31(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 31(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 40(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 36(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 33(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 33(3).

As to the names under which persons are registered and may vote (and whether any difference between them is allowed) see *R v Thwaites* (1853) 1 E & B 704 at 711 per Crompton J.

6 Representation of the People Act 1983 Sch 1 r 35(4) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 30(4), Sch 2 r 31(4), Sch 3 r 31(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 31(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 40(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 36(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 33(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 33(4).

7 As to polls at elections or referendums which are taken together see para 16 et seq ante.

8 See the Perjury Act 1911 s 5 (false statutory declarations and other false statements without oath); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) para 717.

404. Voting procedure. In relation to a parliamentary election, or at a local government election for a principal area, parish or community[1], immediately before delivery of a ballot paper to a voter[2] who applies for one[3]:

(1) the number and name of the elector[4] as stated in the copy of the register of electors must be called out[5] unless the elector in question has an anonymous entry in the register[6], in which case he must first show the presiding officer his official poll card and then only his number will be called out[7];

(2) the number of the elector must be marked, on the version of the corresponding number list supplied to the polling station[8], beside the number of the ballot paper to be issued to him[9];

(3) a mark must be placed in the register of electors against the number of the

elector to note that a ballot paper has been received but without showing the particular ballot paper which has been received[10];

(4) as from a day to be appointed in relation to a parliamentary election[11], the voter must sign the corresponding number list mentioned in head (2) above[12] beside the number of the elector marked on the list in accordance with head (2) above[13]; and

(5) in the case of a person applying for a ballot paper as proxy, a mark must also be placed against his name in the list of proxies[14].

The presiding officer at such an election must also keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register[15] which takes effect on the day of the poll[16].

In relation to other types of election[17], a ballot paper must be delivered to a voter[18] who applies for one and, immediately before delivery[19]:

(a) the ballot paper must be stamped with the official mark[20];

(b) the number and name of the elector[21] as stated in the copy of the register of electors must be called out[22];

(c) the number of the elector must be marked on the counterfoil[23];

(d) a mark must be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received[24]; and

(e) in the case of a person applying for a ballot paper as proxy, a mark must also be placed against his name in the list of proxies[25].

In relation to any type of election, the voter, on receiving the ballot paper, must forthwith proceed into one of the compartments in the polling station and there secretly mark his paper[26]. The voter must then fold his paper up in such a way as to conceal his vote and he must then show to the presiding officer[27] the back of the paper, so as to disclose the official mark (or, in the case of a parliamentary election or local government election for a principal area, parish and community, so as to disclose the number and other unique identifying mark), and put the ballot paper so folded up in the ballot box in the presence[28] of the presiding officer[29]. The voter must vote without undue delay and must leave the polling station as soon as he has put his ballot paper into the ballot box[30].

It is an offence to interfere or attempt to interfere with a voter when he is recording his vote[31].

1 For the meaning of 'parliamentary election' see para 9 ante. As to the ordinary election of councillors for local government principal areas see para 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see para 207 et seq ante. As to London Authority elections see the text and notes 17–25 infra. For the meanings of 'Authority election' and 'local government election' see para 10 ante.

2 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): see para 110 note 2 ante. As to voting by proxy see para 371 et seq ante. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see paras 382, 387 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 37(1) (Sch 1 r 37(1)–(3) substituted, and Sch 1 r 37(4)–(6) added, by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 75); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 35(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 35(1).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 75 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Furthermore, until a day to be appointed under the Electoral Administration Act 2006 s 77(2), Sch 1 para 75 has no effect in so far as it relates to the substitution of the Representation of the People Act 1983 Sch 1

r 37(1)(d) and the addition of Sch 1 r 37(4): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, arts 3, 6, Sch 1 para 12(d), Sch 2 para 1. At the date at which this volume states the law, no such day had been appointed.

4 For the meaning of 'elector' see para 110 note 2 ante.

5 Representation of the People Act 1983 Sch 1 r 37(1)(a) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(a). In the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante), the reference in the text to the copy of the register of electors is to be read as a reference to the copy of the notice issued under s 13B(3B) (as added) or s 13(3D) (as added): see Sch 1 r 37(3)(a) (as so substituted); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(3)(a). See note 3 supra.

6 For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

7 Representation of the People Act 1983 Sch 1 r 37(1)(a), (2) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(a), (2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(a), (2). See note 3 supra.

8 Ie the list mentioned, in relation to a parliamentary election, under the Representation of the People Act 1983 Sch 1 r 29(3)(e) (as added) or, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 26(3)(d) or, in relation to a local government election for a parish or community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 26(3)(d) (see para 396 ante).

The form of the corresponding number list to be prepared by a returning officer for the purposes of the Representation of the People Act 1983 Sch 1 r 29(3)(e) (as added), Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see the text and notes 11–13 infra) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form L2: corresponding number list for use in polling station at parliamentary election taken alone) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(2) (added by SI 2006/2910). When a parliamentary election is combined with another poll under the Representation of the People Act 1985 s 15 (as amended) (see paras 21–22 ante) or under the Local Government Act 2000 s 44(2) (provision for the combination of polls at elections for the return of elected mayors and at elections for the return of elected executive members: see para 26 ante) or under s 45(6) (provision for the combination of polls at referendums with polls at any elections: see para 27 ante), the corresponding number list to be prepared by a returning officer for the purposes of the Representation of the People Act 1983 Sch 1 r 29(3)(e) (as added) must be in the form set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Sch 3 (Form M2: corresponding number list for use in polling station when parliamentary election combined with a relevant election or referendum) (added by SI 2006/2910): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 63A(4) (added by SI 2006/2910). The regulation refers to polls that are combined under the Local Government Act 2000 s 44(2) or s 44(6), but it is submitted that a reference to s 45(6) is intended. The amendments effected by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, do not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see reg 1(2), (3).

As to the form of the corresponding number list mentioned in the text used for the purposes of a local government election for a principal area, parish or community see para 396 ante.

9 Representation of the People Act 1983 Sch 1 r 37(1)(b) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(b). See note 3 supra.

10 Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(c). In the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante), the reference in the text to placing a mark in the register of electors is to be read as a reference to placing a mark on the copy of the notice issued under s 13B(3B) (as added) or s 13(3D) (as added): see Sch 1 r 37(3)(b) (as so substituted); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(3)(b). See note 3 supra.

11 At the date at which this volume states the law, no such day had been appointed. As to the commencement of these provisions see note 3 supra.

12 See note 8 supra.

13 Representation of the People Act 1983 Sch 1 r 37(1)(d) (prospectively substituted: see note 3 supra). The provision set out in Sch 1 r 37(1)(d) (prospectively substituted) does not apply to a voter to whom Sch 1 r 38 (as amended) applies (i e a voter with an incapacity who votes with the assistance of the presiding officer: see para 406 post) or to a voter to whom Sch 1 r 39 (as substituted and amended) applies (i e a voter with an incapacity who votes with the assistance of a companion: see para 407 post): Sch 1 r 37(4) (prospectively added: see note 3 supra). See also note 11 supra.

14 Ibid Sch 1 r 37(1)(e) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(d). See note 3 supra.

15 Ie by virtue of the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante).

16 Ibid Sch 1 r 41A (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 38); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 41; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 41.

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 38 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

17 Ie a local government election other than for a principal area, parish or community, a Welsh Assembly election or a European parliamentary election. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to European parliamentary elections see para 224 et seq ante.

18 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to Welsh Assembly elections see para 124 note 5 ante; and in relation to European parliamentary elections see para 125 note 6 ante. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see paras 382, 387 ante.

19 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 19(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 32(1), Sch 2 r 33(1), Sch 3 r 33(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 33(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 42(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1).

20 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(a), Sch 2 r 33(1)(a), Sch 3 r 33(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(a). As to the official mark see para 392 ante.

21 For the meaning of 'elector', in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante. As to the number of an elector see para 160 ante.

22 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(b), Sch 2 r 33(1)(b), Sch 3 r 33(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(b).

At an ordinary London Authority election, the same copy of the register of electors may be used for each election and one mark may be placed in that register to denote that a ballot paper has been received in respect of each election; except that, where a ballot paper has been issued in respect of one election only, a different mark must be placed in the register so as to identify the election in respect of which the ballot paper was issued: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 7. For the meaning of 'Authority election' see para 10 ante.

At an ordinary Welsh Assembly election, the same copy of the register of electors may be used for a constituency election and a regional election and one mark may be placed in that register under head (d) in the text or in the list of proxies under head (e) in the text to denote that a ballot paper has been received in respect of each election except that, where a ballot paper has been issued in respect of one election only, a different mark must be placed in the register or, as the case may be, list so as to identify

the election in respect of which the ballot paper was issued: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(4). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.

23 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(c), Sch 2 r 33(1)(c), Sch 3 r 33(1)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(c).

24 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(d), Sch 2 r 33(1)(d), Sch 3 r 33(1)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(d). As to an ordinary Welsh Assembly election see note 22 supra.

25 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(1)(e), Sch 2 r 33(1)(e), Sch 3 r 33(1)(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(1)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(1)(e). As to an ordinary Welsh Assembly election see note 22 supra. There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly head (e) in the text does not apply in that case.

26 Representation of the People Act 1983 Sch 1 r 37(5) (as added: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(2), Sch 2 r 33(2), Sch 3 r 33(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(4).

As to the mark (or, as the case may be, marks) to be made on a ballot paper see the directions for the guidance of the voters in voting; and para 396 note 13 ante. As to the grounds on which a ballot paper may be rejected during the count see para 434 et seq post; and as to the treatment of rejected votes see para 438 et seq post.

27 As to the presiding officer see para 398 ante.

28 The ballot paper can presumably be validly placed in the ballot box notwithstanding the absence of the presiding officer: see para 398 ante.

29 Representation of the People Act 1983 Sch 1 r 37(5) (as added: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(2), Sch 2 r 33(2), Sch 3 r 33(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(4). As to security measures associated with the ballot paper see para 392 ante.

30 Representation of the People Act 1983 Sch 1 r 37(6) (as added: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 32(3), Sch 2 r 33(3), Sch 3 r 33(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 33(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 38(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(5).

31 See para 744 post.

405. Challenge of voter. A person is not to be prevented from voting at a parliamentary election[1], or at local government elections for principal areas, parishes or communities[2], by reason only that a candidate[3] or his election or polling agent[4] declares that he has reasonable cause to believe that the person has committed an offence of personation[5] or by reason only that the person is arrested on the grounds that he is suspected of committing or of being about to commit such an offence[6].

In relation to any other type of election[7], if, at the time a person applies for a ballot paper for the purpose of voting in person or after he has applied for a ballot paper for that purpose and before he has left the polling station[8], a candidate or his election or polling agent[9] declares to the presiding officer[10] that he has reasonable cause to believe that the applicant has committed an offence of personation and undertakes to substantiate the charge in a court of law, the presiding officer may order a constable to arrest the applicant[11], and the order of the presiding officer is sufficient authority for the constable so to do[12]. The person who has been challenged must not by reason of it be prevented from voting[13]. A person arrested is to be dealt with as a person taken into custody by a constable for an offence without a warrant[14].

1 For the meaning of 'parliamentary election' see para 9 ante.

2 As to the ordinary election of councillors for local government principal areas see para 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see para 207 et seq ante. As to London Authority elections see the text and notes 7–14 infra. For the meanings of 'Authority election' and 'local government election' see para 10 ante.

3 For the meaning of 'candidate' generally see para 237 ante.

4 In the context of a local government election for a parish or community council, at which a candidate need not have an election agent (see para 238 note 3 ante), the reference is to a candidate's polling agent only: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 34. As to the appointment of election agents generally see para 238 et seq ante; and as to polling agents see para 399 ante.

5 As to the offence of personation see para 733 post.

6 Representation of the People Act 1983 s 23(1), Sch 1 r 36 (substituted by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 132); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 34; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 34. The Police and Criminal Evidence Act 1984 s 24A (as added and amended) (arrest without warrant: other persons) does not permit a person other than a constable to arrest inside a polling station a person who commits or is suspected of committing an offence of personation: see para 733 post.

7 Ie at an Authority election or an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

8 As to voting procedure see para 404 ante.

9 There is no provision for election agents at a poll consequent on a parish meeting on a question involving appointment to office. Consequently, in that context, the reference is to a candidate or his polling agent only: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 18(1).

At a European parliamentary election, the reference is to a candidate or the election or polling agent of a registered party standing nominated or of a individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 37(1).

10 As to the presiding officer see para 398 ante.

11 This power may be exercised only by the presiding officer and not by one of the clerks appointed to assist him: see para 398 ante.

12 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 31(1), Sch 2 r 32(1), Sch 3 r 32(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 32(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 41(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 37(1).

The Police and Criminal Evidence Act 1984 s 26 (repeal of statutory powers of arrest: see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) para 927) does not apply to the power of arrest in the Representation of the People Act 1983 Sch 1 r 36 (as substituted) (see the text and notes 1–6

supra): Representation of the People Act 1985 s 25(1). As from a day to be appointed under the Electoral Administration Act 2006 s 77(2), the Representation of the People Act 1985 s 25(1) is repealed by the Electoral Administration Act 2006 s 74(2), Sch 2. At the date at which this volume states the law, no such day had been appointed.

13 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 31(2), Sch 2 r 32(2), Sch 3 r 32(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 32(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 41(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 37(2).

14 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 31(3), Sch 2 r 32(3), Sch 3 r 32(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 32(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 41(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 37(3).

406. Votes marked by the presiding officer in assisting voters with incapacities. On the application of a voter[1] who is incapacitated by blindness or other disability or other physical cause (as the case may be)[2] from voting in the manner directed by the rules, or who declares orally that he is unable to read, the presiding officer[3] must, in the presence of the polling agents[4], cause the vote of the voter to be marked on a ballot paper in the manner directed by the voter, and the ballot paper to be placed in the ballot box[5].

The name and number[6] on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, must be entered on a list which is called the 'list of votes marked by the presiding officer'[7]. However, in the case of a person voting as proxy for an elector, this is subject to the proviso that the number to be entered together with the name of the voter must be the number of the elector[8].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for voting with the assistance of the presiding officer[9].

1 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to parliamentary and local government elections see para 110 note 2 ante; in relation to Welsh Assembly elections see para 124 note 5 ante; and in relation to European parliamentary elections see para 125 note 6 ante.

2 The reference to 'blindness or other disability' applies in relation to a parliamentary election (see the Representation of the People Act 1983 s 23(1), Sch 1 r 38(1) (as amended)), a local government election for a principal area (see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 36(1)) and a local government election for a parish or community council (see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 36(1)). Otherwise, the reference is to 'blindness or other physical cause'. As to the meaning of 'disability' see para 372 note 8 ante.

3 As to the presiding officer see para 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see para 398 ante.

4 As to polling agents see para 399 ante. The non-attendance of the polling agents does not invalidate any act or thing done, if the act or thing is otherwise duly done: see para 399 ante.

5 Representation of the People Act 1983 Sch 1 r 38(1) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 77); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 20(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 33(1), Sch 2 r 34(1), Sch 3 r 34(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 34(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 43(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 39(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(1).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 77 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation

to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

6 As to the number of an elector see para 160 ante.

7 Representation of the People Act 1983 Sch 1 r 38(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 20(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 33(2), Sch 2 r 34(2), Sch 3 r 34(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 34(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 43(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 39(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(2).

In the case of a person in respect of whom a notice has been issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante), Sch 1 r 38(2) (in the case of a parliamentary election), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(2) (in the case of a local government election for a principal area) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(2) (in the case of a local government election for a parish or community council) each applies as if instead of referring to the name and number of every voter on the register of electors it referred to the name and number relating to every voter in respect of whom a notice has been issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added): Sch 1 r 38(3) (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 35); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(3). The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 35 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

At an ordinary London Authority election, and at any London mayoral election, the same list of votes marked by the presiding officer may be used for each election and, where it is so used, an entry in that list must be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 3 r 34(4), Sch 4 r 8. For the meaning of 'Authority election' see para 10 ante.

At an ordinary Welsh Assembly election where voters are entitled to give two votes at the polling station, the same list of votes marked by the presiding officer may be used for the constituency and regional elections at which the voters are entitled to vote and, where it is so used, an entry in that list is to be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 43(4). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.

8 Representation of the People Act 1983 Sch 1 r 38(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 33(3), Sch 2 r 34(3), Sch 3 r 34(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 34(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 43(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 39(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 36(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 36(2). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the provision that is set out in the text does not apply in that case. As to voting by proxy see para 371 et seq ante.

9 As to polls at elections or referendums which are taken together see para 16 et seq ante.

407. Companions assisting voters with incapacities. If a voter[1] at an election[2] makes an application to the presiding officer[3] to be allowed, on the ground of blindness or other disability or other physical cause (as the case may be)[4] or inability to read, to vote with the assistance of another person by whom he is accompanied (called the 'companion'), the presiding officer must require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or other disability or incapacity (as the case may be), or by his inability to read, as to be unable to vote without assistance[5].

If the presiding officer is satisfied that the voter is so incapacitated, and is also satisfied by a written declaration made by the companion (called the 'declaration made by the companion of a voter with disabilities')[6] that the companion is a qualified person and has not previously assisted more than one voter with disabilities to vote at the election, he must grant the application, and then anything required to be done to or by the voter in connection with the giving of his vote may be done to, or with the assistance of, the companion[7]. The name and number in the register of electors of every voter[8] whose vote is given by a companion, together with the name and address of the companion, must be entered on a list (called the 'list of voters with disabilities assisted by companions')[9]. However, in the case of a person voting as proxy for an elector, this is subject to the proviso that the number to be entered together with the name of the voter must be the number of the elector[10]. The declaration made by the companion must be in the prescribed form[11] and must be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and must forthwith be given to the presiding officer who must attest and retain it[12]. No fee or other payment is to be charged in respect of the declaration[13].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for voting with the assistance of a companion[14].

1 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to parliamentary and local government elections see para 110 note 2 ante; in relation to Welsh Assembly elections see para 124 note 5 ante; and in relation to European parliamentary elections see para 125 note 6 ante.

2 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

3 As to the presiding officer see para 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see para 398 ante.

4 The reference to 'blindness or other disability' applies in relation to a parliamentary election (see the Representation of the People Act 1983 s 23(1), Sch 1 r 39(1) (as substituted and amended)), a local government election for a principal area (see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 37(1)) and a local government election for a parish or community council (see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 37(1)). Otherwise, the reference is to 'blindness or other physical cause'. As to the meaning of 'disability' see para 372 note 8 ante.

5 Representation of the People Act 1983 Sch 1 r 39(1) (Sch 1 r 39 substituted by the Representation of the People Act 2000 s 13(1), (3); and the Representation of the People Act 1983 Sch 1 r 39(1) amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 78); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 21(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 34(1), Sch 2 r 35(1), Sch 3 r 35(1) (Sch 1 r 34, Sch 2 r 35, Sch 3 r 35 substituted by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 35(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 44(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 40(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(1).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 78, 80 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in

relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

At a poll consequent on a parish meeting on a question involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other physical incapacities or an inability to read must be ignored in that case (although a voter who is unable to read may vote at such a poll with the assistance of the presiding officer: see para 406 ante). Also, it is not specified in such a case that the declaration is to be made orally or in writing: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(1).

6 For these purposes, a person is a voter with disabilities if he has made such a declaration as is mentioned in the text; and a person is qualified to assist a voter with disabilities to vote if that person is a person who is entitled to vote as an elector at the election or is the father, mother, brother, sister, spouse, civil partner, son or daughter of the voter and has attained the age of 18 years: Representation of the People Act 1983 Sch 1 r 39(3) (as substituted (see note 4 supra); and amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 85(1), (4)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(3) (as substituted (see note 4 supra); and amended by SI 2005/2114); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 35(3) (as substituted (see note 4 supra); and amended by SI 2005/2114); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 35(3) (as substituted (see note 4 supra); and amended by SI 2005/2114); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(3) (amended by SI 2005/2114); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(3) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(3) (amended by SI 2005/2114); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(3). However, for the purposes of a poll consequent on a parish meeting on a question involving appointment to office, it is specified that a person is qualified to assist a blind voter to vote if that person is either a person who is entitled to vote at the poll or the father, mother, brother, sister, spouse, civil partner, son or daughter of the blind voter and has attained the age of 18 years: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(3) (amended by SI 2005/2114). The written declaration made by the companion at such a poll is known as the 'declaration made by the companion of a blind voter': see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(2). See note 4 supra. For the meaning of 'elector', in relation to a parliamentary or local government election, see para 110 note 2 ante; in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante.

7 Representation of the People Act 1983 Sch 1 r 39(2) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(2), Sch 2 r 35(2), Sch 3 r 35(2) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(2).

8 As to the number of an elector and the form and content of registers of electors see para 160 ante.

In the case of a person in respect of whom a notice has been issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante), Sch 1 r 39(4) (as substituted) (in the case of a parliamentary election), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(4) (in the case of a local government election for a principal area) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(4) (in the case of a local government election for a parish or community council) each applies as if instead of referring to the name and number of every voter in the register of electors it referred to the name and number relating to every voter in respect of whom a notice has been issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added): Sch 1 r 39(4A) (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 36); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(5).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 36 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Representation of the People Act 1983 Sch 1 r 39(4) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(4), Sch 2 r 35(4), Sch 3 r 35(4) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(4). For the purposes of a poll consequent on a parish meeting on a question involving appointment to office, the list referred to in the text is known as the 'list of blind voters assisted by companions': see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(4). See note 3 supra.

At an ordinary London Authority election, the same list of voters with disabilities assisted by companions may be used for each election and, where it is so used, an entry in that list must be taken to mean that the votes were so given in respect of each election, unless the list identifies the election at which the vote was so given: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 9. At an ordinary Welsh Assembly election, where voters are entitled to give two votes at the polling station, the same list of voters with disabilities assisted by companions may be used for the constituency and regional elections at which the voters are entitled to vote and, where it is so used, an entry in that list must be taken to mean that the votes were so given in respect of each election, unless the list identifies the election at which a vote was so given: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(8).

10 Representation of the People Act 1983 Sch 1 r 39(4) (as substituted: see note 4 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(5), Sch 2 r 35(5), Sch 3 r 35(5) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(4). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the provision that is set out in the text does not apply in that case. As to voting by proxy see para 371 et seq ante.

11 Representation of the People Act 1983 Sch 1 r 39(5)(a) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(5)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(6)(a), Sch 2 r 35(6)(a), Sch 3 r 35(6)(a) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(6)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(6)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(5)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(6)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(6)(a).

The prescribed form is set out, in relation to a parliamentary election, in the Representation of the People Act 1983 Sch 1 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities) (amended by the Representation of the People Act 2000 s 13(1), (5)(a), (b); and the Electoral Administration Act 2006 Sch 1 paras 69, 80). As to the commencement of the amendment made by the Electoral Administration Act 2006 see note 5 supra. In relation to a local government election for a principal area see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities). In relation to a local government election for a parish or community council see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities); and where such elections are taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities). In relation to an Authority election see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 5 (Form 15: declaration to be made by the companion of a voter with disabilities) (Form 15 amended by SI 2004/227). In relation to a poll consequent on a parish meeting on a question involving appointment to office see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of declaration to be made by the companion of a blind voter). In relation to a local authority mayoral election see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 11: declaration to be made by

the companion of a voter with disabilities). In relation to a Welsh Assembly election see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities) (amended by SI 2005/2114). In relation to a European parliamentary election see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities).

For the purposes of elections which take place in Wales see the form set out in Welsh, to be used as the applicant requires, in the Local Elections (Communities) (Welsh Forms) Order 1987, SI 1987/561, art 2, Schedule Pt I (declaration to be made by the companion of a blind voter, datganiad a wneir gan gydymaith pleidleisiwr dall); and the Local Elections (Principal Areas) (Welsh Forms) Order 1987, SI 1987/562, art 2, Schedule Pt I (declaration to be made by the companion of a blind voter, datganiad a wneir gan gydymaith pleidleisiwr dall). Where an election in Wales is held together with another election or referendum see the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 3, Schedule Pt I (Form of declaration to be made by the companion of a voter with disabilities, ffurflen datganiad i'w wneud gan gydymaith pleidleisiwr gydag anableddau); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 3, Schedule Pt I (Form of declaration to be made by the companion of a voter with disabilities, ffurflen datganiad i'w wneud gan gydymaith pleidleisiwr gydag anableddau). See also the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 5, Sch 1 (Form 5: Form of declaration to be made by the companion of a voter with disabilities, ffurf ar gyfer y datganiad i'w wneud gan gydymaith pleidleisiwr/wraig ag anableddau; Form 6: Form of declaration to be made by the companion of a voter with disabilities, ffurf ar ddatganiad i'w wneud gan gydymaith pleidleisiwr/wraig sydd ag anableddau (combined polls)); and the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, arts 4–5, Sch 1 (Form 6: Form of declaration to be made by the companion of a voter with disabilities, ffurflen datganiad i'w wneud gan gydymaith pleidleisiwr gydag anableddau).

12 Representation of the People Act 1983 Sch 1 r 39(5)(b) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(5)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(6)(b), Sch 2 r 35(6)(b), Sch 3 r 35(6)(b) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(6)(b), (c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(6)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(5)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(6)(b), (c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(6)(b), (c).

13 Representation of the People Act 1983 Sch 1 r 39(6) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(6); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 34(7), Sch 2 r 35(7), Sch 3 r 35(7) (all as substituted: see note 4 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 35(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 44(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 40(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 37(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 37(7).

14 As to polls at elections or referendums which are taken together see para 16 et seq ante.

408. Tendered ballot papers. If a person who represents himself to be a particular elector[1] named on the register[2] (and not named in the absent voters list[3]) or who represents himself to be a particular person named in the list of proxies[4] as proxy for an elector (and not entitled to vote by post as proxy[5]) applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant, on satisfactorily answering the questions permitted by law to be asked at the poll[6], is entitled to mark a ballot paper (called a 'tendered ballot paper') in the same manner as any other voter[7]. Additionally, but only in relation to a parliamentary election or a local government election for a principal area, parish or community[8], if a person applies for a ballot paper representing himself to be a particular elector and he is named both on the register[9] and in the postal voters list, or if such a person is named both as a proxy in the list of proxies and in the proxy postal voters list, and that person claims that he did not make an application to vote by post at the election or to vote by post as proxy (as the case may be)[10], then that person, on satisfactorily answering the questions permitted by

law to be asked at the poll, is entitled to mark a ballot paper (a 'tendered ballot paper') in the same manner as any other voter[11]. Also, if before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper, a person either represents himself to be a particular elector named on the register[12] who is also named in the postal voters list or represents himself to be a particular person named as a proxy in the list of proxies who is also named in the proxy postal voters list, and claims that he has lost or has not received his postal ballot paper[13], then that person, on satisfactorily answering the questions permitted by law to be asked at the poll, is entitled to mark a ballot paper (a 'tendered ballot paper') in the same manner as any other voter[14].

A tendered ballot paper must be of a colour differing from the other ballot papers and, instead of being put into the ballot box, it must be given to the presiding officer[15] and endorsed by him[16] with the name of the voter and his number in the register of electors[17], and set aside in a separate packet[18]. The name of the voter and his number on the register of electors[19] must be entered on a list (called the 'tendered votes list') and, in the case of a parliamentary election, the voter must also sign the tendered votes list opposite the entry relating to him[20]. However, in the case of a person voting as proxy for an elector, this is subject to the proviso that the number to be endorsed or entered together with the name of the voter is the number of that elector[21].

1 For the meaning of 'elector', in relation to a parliamentary or local government election, see para 110 note 2 ante; in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante.

2 As to the registers of electors see para 156 et seq ante.

The Representation of the People Act 1983 s 23(1), Sch 1 r 40 (as amended) (in the case of a parliamentary election), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 rr 38, 39 (in the case of a local government election for a principal area) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 rr 38, 39 (in the case of a local government election for a parish or community council) each apply also to an elector who has an anonymous entry in the register of electors, subject to minor modifications (see notes 17, 19 infra) (Representation of the People Act 1983 Sch 1 r 40(4A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 14(1), (5)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(4)) and to an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante), subject to minor modifications (see notes 9, 12, 17, 19 infra) (Sch 1 r 40(4B) (added by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 37); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)). Accordingly, in each case, the reference in the text to an 'elector named on the register' must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) as a reference to an elector in respect of whom such a notice has been issued: Sch 1 r 40(4B)(a) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(a). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 37 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

3 As to the absent voters list see para 378 ante.

4 As to the list of proxies see para 378 ante.

5 As to the entitlement to vote by post as proxy see paras 382, 386 ante.

6 As to the questions that may be put to person applying for a ballot paper see para 403 ante. It would appear that the application is not complete until the questions have been answered and that the onus is on the applicant to demand that they be put: *Lyons v Cunningham* (1920) 55 ILT 35 at 38.

7 Representation of the People Act 1983 Sch 1 r 40(1) (amended by the Representation of the People Act 1985 ss 11, 28, Sch 2 para 7, Sch 5); Greater London Authority Elections (No 2) Rules 2000,

SI 2000/427, r 3(1)–(3), Sch 1 r 35(1), Sch 2 r 36(1), Sch 3 r 36(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 36(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 45(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 41(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(1). To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see paras 382, 387 ante. There is no provision for absent voting at a poll consequent on a parish meeting on a question involving appointment to office and accordingly, in that case, if a person representing himself to be a particular elector named on the register applies for a ballot paper after another person has voted as the elector, the applicant, on satisfactorily answering the questions permitted by law to be asked at the poll, is entitled, subject to the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 22(2)–(3) (see the text and notes 15–20 infra), to mark a ballot paper (a 'tendered ballot paper') in the same manner as any other voter: Schedule r 22(1). As to voting by proxy see para 371 et seq ante; and as to the provisions relating to ballot papers generally see para 391 et seq ante.

8 For the meaning of 'parliamentary election' see para 9 ante. As to the ordinary election of councillors for local government principal areas see para 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see para 207 et seq ante. For the meaning of 'local government election' see para 10 ante.

9 The reference in the text to an elector named on the register must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante) as a reference to an elector in respect of whom such a notice has been issued: Sch 1 r 40(4B)(a) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304; Sch 2 r 39(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(a). See note 2 supra.

10 Representation of the People Act 1983 Sch 1 r 40(1ZA), (1ZB) (Sch 1 r 40(1ZA)–(1ZC) added by the Electoral Administration Act 2006 s 38(1)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(2), (3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(2), (3).

Any amendment effected by the Electoral Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

11 Representation of the People Act 1983 Sch 1 r 40(1ZC) (as added: see note 10 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(4). See note 10 supra.

12 The reference in the text to an elector named on the register must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante) as a reference to an elector in respect of whom such a notice has been issued: Sch 1 r 40(4B)(a) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(a). See note 2 supra.

13 Representation of the People Act 1983 Sch 1 r 40(1ZD) (Sch 1 r 40(1ZD), (1ZE) added by the Electoral Administration Act 2006 s 38(2)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(5). See note 10 supra.

14 Representation of the People Act 1983 Sch 1 r 40(1ZE) (as added: see note 13 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 38(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 38(6). See note 10 supra.

15 As to the presiding officer see para 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see para 398 ante. If the applicant puts his vote in the ballot box instead of giving it to the presiding officer the vote is bad: *York County East Riding, Buckrose Division, Case* (1886) 4 O'M & H 110 at 115.

16 The omission to make the endorsement is not a fatal objection to the vote: *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 43.

17 As to the number of an elector see para 160 ante. The reference to the name of the voter in the Representation of the People Act 1983 Sch 1 r 40(2) (in the case of a parliamentary election), in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(1) (in the case of a local government election for a principal area) and in the Local Elections (Parishes and

Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(1) (in the case of a local government election for a parish or community council) must be ignored in the case of an elector who has an anonymous entry in the register of electors but otherwise a reference to a person named on a register must be construed as a reference to a person whose number appears on the register: Representation of the People Act 1983 Sch 1 r 40(4A)(a), (b) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(4)(a), (b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(4)(a), (b). The reference in those same provisions (as they apply) to his number in the register of electors must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante) as a reference to the number relating to him on such a notice: Sch 1 r 40(4B)(b) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(b). See note 2 supra. As to anonymous entries in a register of electors see para 174 ante.

18 Representation of the People Act 1983 Sch 1 r 40(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 35(2), Sch 2 r 36(2), Sch 3 r 36(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 36(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 45(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 41(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(1). A tendered vote is not counted by the returning officer: in relation to the counting of votes at a parliamentary or local government election (except a London Authority election) see para 432 post; in relation to a London Authority election see para 443 post; in relation to a local authority or London mayoral election see para 451 post; in relation to a Welsh Assembly election see para 461 post; and in relation to a European parliamentary election see para 471 post. As to the adding of the vote on a scrutiny see para 842 post.

19 The reference to the name of the voter in the Representation of the People Act 1983 Sch 1 r 40(3) (in the case of a parliamentary election), in the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(2) (in the case of a local government election for a principal area) and in the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(2) (in the case of a local government election for a parish or community council) must be ignored in the case of an elector who has an anonymous entry in the register of electors; but otherwise a reference to a person named on the tendered voters list must be construed as a reference to a person whose number appears on the list: Representation of the People Act 1983 Sch 1 r 40(4A)(a), (b) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(4)(a), (b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(4)(a), (b). The reference in those same provisions (as they apply) to his number on the register of electors must be read, in the case of an elector who is added to the register in pursuance of a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante) as a reference to the number relating to him on such a notice: Sch 1 r 40(4B)(c) (as added: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(5)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(5)(c). See note 2 supra.

20 Representation of the People Act 1983 Sch 1 r 40(3) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 81(1), (3)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 35(3), Sch 2 r 36(3), Sch 3 r 36(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 36(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 45(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 41(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(2).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 81 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

At an ordinary London Authority election and at any London mayoral election, the same tendered voters list may be used for each election and, where it is so used, an entry in that list must be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 3 r 36(5), Sch 4 r 10. For the meaning of 'Authority election' see para 10 ante. At an ordinary Welsh Assembly election, where voters are entitled to give two votes at the

polling station, the same tendered voters list may be used for the constituency and regional elections at which the voters are entitled to vote and, where it is so used, an entry in that list must be taken to mean that tendered ballot papers were so marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was so marked: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 45(5). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.

21 Representation of the People Act 1983 Sch 1 r 40(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 35(4), Sch 2 r 36(4), Sch 3 r 36(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 36(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 45(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 41(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 39(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 39(3). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the provision that is set out in the text does not apply in that case.

409. Spoilt ballot papers. A voter[1] who has inadvertently dealt with his ballot paper at an election[2] in such manner that it cannot be conveniently used as a ballot paper[3] may, on delivering it to the presiding officer[4] and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in place of the ballot paper so delivered (called a 'spoilt ballot paper')[5]. The spoilt ballot paper must be immediately cancelled[6].

1 For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy): in relation to parliamentary and local government elections see para 110 note 2 ante; in relation to Welsh Assembly elections see para 124 note 5 ante; and in relation to European parliamentary elections see para 125 note 6 ante.

2 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

3 As to the provisions relating to ballot papers generally see para 391 et seq ante.

4 As to the presiding officer see para 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see para 398 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 41; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 23; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 36, Sch 2 r 37, Sch 3 r 37; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 37; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 46; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 42; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 40; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 40.

6 Representation of the People Act 1983 Sch 1 r 41; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 23; Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 36, Sch 2 r 37, Sch 3 r 37; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 37; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 46; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 42; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 40; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 40.

410. Procedure on close of poll at a polling station. As soon as practicable after the close of the poll at an election[1], the presiding officer[2] must, in the presence of the polling agents[3], make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals[4]:

(1) each ballot box in use at his station, sealed so as to prevent the introduction of additional ballot papers and unopened (but, if the boxes are capable of being locked, with the key attached)[5];

(2) the unused and spoilt ballot papers, placed together[6];

(3) the tendered ballot papers[7];

(4) the marked copies of the register of electors[8] and of the list of proxies[9];

(5) (in the case of a parliamentary election or a local government election for a principal area, parish or community council) the completed corresponding number lists[10] or (in the case of any other election) the counterfoils of the used ballot papers[11];

(6) the certificates as to employment on duty on the day of the poll[12]; and

(7) the tendered votes list[13], the list of voters with disabilities assisted by companions[14], the list of votes marked by the presiding officer[15], a statement of the number of voters whose votes are so marked by the presiding officer under the heads 'disability (or 'physical incapacity', as the case may be) and 'unable to read', the declarations made by the companions of voters with disabilities and (in the case of a parliamentary election or a local government election for a principal area, parish or community council) the list maintained by the presiding officer of persons to whom ballot papers were delivered in consequence of an alteration to the register which took effect on the day of the poll[16].

The materials mentioned in head (4) above must be in one packet but must not be in the same packet as the materials mentioned in heads (5) and (6) above[17].

The presiding officer must deliver the packets or cause them to be delivered to the appropriate returning officer[18] to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the returning officer, the arrangements for their delivery require the approval of the returning officer[19].

The packets must be accompanied by a statement (the 'ballot paper account') made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused ballot papers, spoilt ballot papers, and tendered ballot papers[20].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the procedure on the close of a poll[21].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a local government election, an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales and a European parliamentary election. Polls consequent on a parish meeting on a question involving appointment to office (as to which see para 207 et seq ante) are also considered and, for this purpose, the text should be read as if, for the reference to 'election', there were a reference to 'poll'. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.

2 As to the presiding officer see para 398 ante. This function of the presiding officer may be discharged by one of the clerks appointed to assist him: see para 398 ante.

3 The non-attendance of the polling agents will not, if the act or thing is otherwise duly done, invalidate the act or thing done: see para 399 ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 43(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 25(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 38(1), Sch 2 r 39(1), Sch 3 r 39(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 39(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 48(1), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 44(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 43(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 43(1). At an ordinary Welsh Assembly election where electors have been entitled to give two votes at the polling station, minor modifications are made to the provisions to ensure that the documents relating to the two elections are kept separate: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1); and notes 6, 7, 9 infra.

5 Representation of the People Act 1983 Sch 1 r 43(1)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(a), Sch 2 r 39(1)(a), Sch 3 r 39(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(a), (2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(a).

6 Representation of the People Act 1983 Sch 1 r 43(1)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(b), Sch 2 r 39(1)(b), Sch 3 r 39(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(b), (c), (2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(b). As to spoilt ballot papers see para 409 ante. At an ordinary Welsh Assembly election, where electors have been entitled to give two votes at the polling station, separate packets must be made up and sealed for: (1) the unused and spoilt ballot papers, placed together, relating to the constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(b)); and (2) the unused and spoilt ballot papers, placed together, relating to the regional election (Sch 5 para 48(1)(c)).

7 Representation of the People Act 1983 Sch 1 r 43(1)(c); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(c); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(c), Sch 2 r 39(1)(c), Sch 3 r 39(1)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(d), (e), (2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(c). As to tendered ballot papers see para 408 ante. At an ordinary Welsh Assembly election, where electors have been entitled to give two votes at the polling station, separate packets must be made up and sealed for: (1) the tendered ballot papers relating to the constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(d)); and (2) the tendered ballot papers relating to the regional election (Sch 5 para 48(1)(e)).

8 Ie including, in the case of a parliamentary election or a local government election for a principal area, parish or community, any marked copy notices of alteration to the register issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante): Sch 1 r 43(1)(d) (amended by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 39(a)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(d).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 39, 69, 79 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Representation of the People Act 1983 Sch 1 r 43(1)(d) (as amended: see note 8 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(d); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(d), Sch 2 r 39(1)(d), Sch 3 r 39(1)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 42(1)(f), (2)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1

para 44(1)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(d). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the reference to the list of proxies in head (4) in the text does not apply in that case. As to the list of proxies see para 378 ante.

10 Representation of the People Act 1983 Sch 1 r 43(1)(da) (added by the Electoral Administration Act 2006 s 31(1), (4)(a)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(e); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(e). The text refers to the lists prepared, in relation to a parliamentary election, under the Representation of the People Act 1983 Sch 1 r 19A (as added) or, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 17 or, in relation to a local government election for a parish and community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 17 (the corresponding number list: see para 392 ante), including the parts which were completed in accordance with, respectively, the Representation of the People Act 1983 Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted), the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 35(1)(b) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 35(1)(b) (see para 404 ante), which are together referred to in the relevant elections rules as the 'completed corresponding number lists': Representation of the People Act 1983 Sch 1 r 43(1)(da) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(e); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(e). As to the elections rules which relate to a parliamentary election, a local government election for a principal area and a local government election for a parish or community council see para 388 ante.

Any amendment effected by the Electoral Administration Act 2006 ss 31, 74(2), Sch 2 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007 (see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1); and the amendment effected by the Electoral Administration Act 2006 s 31(4) has no effect to the extent that it relates to the Representation of the People Act 1983 Sch 1 r 37(1)(d) (prospectively substituted) (see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1 para 14(p)).

11 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(e); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(e), Sch 2 r 39(1)(e), Sch 3 r 39(1)(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(g)–(i), (2)(e), (f); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(e). At an ordinary Welsh Assembly election, where electors have been entitled to give two votes at the polling station, separate packets must be made up and sealed for: (1) the counterfoils of the used ballot papers relating to the constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(g)); and (2) the counterfoils of the used ballot papers relating to the regional election (Sch 5 para 48(1)(h)).

12 Representation of the People Act 1983 Sch 1 r 43(1)(e) (amended by the Electoral Administration Act 2006 ss 31(1), (4)(b), 74(2), Sch 2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(e); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(e), Sch 2 r 39(1)(e), Sch 3 r 39(1)(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(g)–(i), (2)(e), (f); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(e); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(f); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(f). There is no provision for certificates as to employment on duty at a poll consequent on a parish meeting on a question involving appointment to office and accordingly head (6) in the text does not apply in that case. As to certificates of employment on duty on the day of the poll see para 402 ante. As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 9 supra.

13 As to the tendered votes list see para 408 ante.

14 As to the list of voters with disabilities assisted by companions see para 407 ante.

15 As to the list of votes marked by the presiding officer see para 406 ante.

16 Representation of the People Act 1983 Sch 1 r 43(1)(f) (amended by the Representation of the People Act 2000 s 13(1), (4); and the Electoral Administration Act 2006 s 47, Sch 1 paras 31, 33, 39(b), 69, 79); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(f); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1)(f), Sch 2 r 39(1)(f), Sch 3 r 39(1)(f)

(all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1)(f); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1)(j), (2)(g); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(1)(f); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(g); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(g). In the case of a parliamentary election or a local government election for a principal area, parish or community council, the heading 'disability' replaces that of 'physical incapacity' in the statement of the number of voters whose votes are so marked by the presiding office; and the list referred to in the text of persons to whom ballot papers were delivered in consequence of an alteration to the register which took effect on the day of the poll is a reference to the list maintained by the presiding officer, in relation to a parliamentary election, under the Representation of the People Act 1983 Sch 1 r 41A (as added) or, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 41 or, in relation to a local government election for a parish and community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 41 (see para 404 ante): Representation of the People Act 1983 Sch 1 r 43(1)(f) (as so amended); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1)(g); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1)(g). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 8 supra.

At a poll consequent on a parish meeting on a question involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other physical incapacities must be ignored in that case, albeit that the statement of the number of voters whose votes are marked by the presiding officer contains the head 'physical incapacity' rather than 'blindness': see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(f).

As to declarations made by the companions of voters with disabilities see para 407 ante.

17 Representation of the People Act 1983 Sch 1 r 43(2) (amended by the Electoral Administration Act 2006 s 31(1), (4)(c)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(3), Sch 2 r 39(3), Sch 3 r 39(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(2). The provision set out in the text does not apply at a Welsh Assembly election because special provision is made for the number and contents of the packets: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(1), (2); and notes 6, 7, 9 supra. At a poll consequent on a parish meeting on a question involving appointment to office, there is no provision either for voting by proxy (see note 8 supra) or for certificates as to employment on duty (see note 9 supra) and accordingly the provision referred to in the text is limited in such a case to requiring that the marked copy of the register of electors must not be in the same packet as the counterfoils of the used ballot papers: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(2). At a London Authority election, the contents of the packets of: (1) the unused and spoilt ballot papers (placed together); (2) the tendered ballot papers; and (3) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll, must not be combined with the contents of the packets made under the corresponding rule that applies at other Assembly elections, nor may the ballot paper account (as to which see the text and note 20 infra) be so combined: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(2), Sch 2 r 39(2), Sch 3 r 39(2). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 9 supra.

18 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante. In the case of a London Authority election, and for the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante; and for the meaning of which in relation to a Welsh Assembly election see para 18 note 2 ante). As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see para 18 ante.

19 Representation of the People Act 1983 Sch 1 r 43(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(1), Sch 2 r 39(1), Sch 3 r 39(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(3); European Parliamentary Elections

Regulations 2004, SI 2004/293, Sch 1 para 44(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(1).

20 Representation of the People Act 1983 Sch 1 r 43(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 38(4)(a)–(d), Sch 2 r 39(4)(a)–(d), Sch 3 r 39(4)(a)–(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 39(3)(a)–(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 44(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 43(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 43(3).

Where the Greater London returning officer determines, in accordance with the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 2(2) (see para 392 note 11 ante), that ballot papers are to be combined, ballot paper accounts must also be combined: Sch 4 r 11. For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

The packets at a Welsh Assembly election must be accompanied by a separate statement relating to each Assembly election at an ordinary Welsh Assembly election where electors have been entitled to give two votes at the polling station, or, otherwise, by a statement relating to the Welsh Assembly election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 48(4)(a), (b).

21 As to polls at elections or referendums which are taken together see para 16 et seq ante.

C. VOTES GIVEN BY POSTAL BALLOT

(A) Issue of Postal Ballot Papers

411. Returning officer's duty to issue postal ballot papers, etc. The returning officer at a parliamentary election, or at a local government election for a principal area, parish or community council[1], must, in accordance with regulations[2], issue to those entitled to vote by post[3] a ballot paper[4] and a postal voting statement in the prescribed form[5], together with such envelopes for their return as may be prescribed[6]. The returning officer must also issue to those entitled to vote by post such information as he thinks appropriate about how to obtain translations into languages other than English of any directions to or guidance for voters sent with the ballot paper[7], a translation into Braille of such directions or guidance[8], graphical representations of such directions or guidance[9], or the directions or guidance in any other form (including any audible form)[10]. In the case of a ballot paper issued to a person resident in the United Kingdom[11], the returning officer must ensure that the return of the ballot paper and postal voting statement is free of charge to the voter[12]; and, in any other case but in relation to a parliamentary election only, regulations may provide that the returning officer must so ensure[13].

At any other election[14], the returning officer[15] must, in accordance with the statutory requirements[16], issue to those entitled to vote by post a postal ballot paper[17] and a declaration of identity in the appropriate form or forms to like effect[18], together with such envelopes for their return (whether free of charge or otherwise) as may be so prescribed[19].

Where the polls at elections are taken together, the proceedings on the issue and receipt of postal ballot papers in respect of each election may, if the returning officers agree, be taken together[20].

1 For the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante. As to the ordinary election of councillors for local government principal areas see para 204 et seq ante; and as to ordinary elections of councillors for parishes or communities see para 207 et seq ante. As to returning officers for parliamentary elections see para 355 et seq ante; and as to returning officers for local government elections see para 359 et seq ante.

2 Ie in accordance with regulations made under the Representation of the People Act 1983. See note 5 infra. As to the making of regulations under the Representation of the People Act 1983 generally see para 24 note 16 ante.

3 As to applications made for absent voting see para 372 et seq ante.

4 Representation of the People Act 1983 Sch 1 r 24(1)(a) (Sch 1 r 24(1), (2) substituted, and Sch 1 para 24(3)–(5) added, by the Electoral Administration Act 2006 s 37); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 22(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 22(1).

Any amendment effected by the Electoral Administration Act 2006 s 37 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 Sch 1 r 24(1)(b) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(1). The form of the postal voting statement must include provision for the form to be signed and for stating the date of birth of the elector or proxy, as the case may be: Representation of the People Act 1983 Sch 1 r 24(3) (as added: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(3). As to the commencement of the amendments of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra. For the meaning of 'elector' see para 110 note 2 ante.

At a parliamentary election taken alone, the form of the postal voting statement to be used is set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 66(a), Sch 3 (Form G: form of postal voting statement (for use at parliamentary elections)) (reg 66 amended, and Forms G–J substituted, by SI 2006/2910); at a parliamentary election where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at another election, the form of the postal voting statement to be used is set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 66(b), Sch 3 (Form H: form of postal voting statement (for use where there is a joint issue and receipt of postal ballot papers)) (reg 66 as so amended; and Form H as so substituted); and at a parliamentary election where the poll is taken together with the poll at another election, but where the proceedings on the issue and receipt of postal ballot papers are not, the form of the postal voting statement to be used is set out in reg 66(c), Sch 3 (Form J: form of postal voting statement (for use when a parliamentary poll is combined with another poll but the postal ballot papers are not combined)) (reg 66 as so amended; Form J as so substituted). The forms set out in Sch 3 (as amended) or forms substantially to the like effect may be used with such variations as the circumstances may require. reg 4(2). At a parliamentary election in Wales, the forms prescribed as the versions partly in Welsh and partly in English which must be used instead are set out in the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6(1)(i), Sch 2 (Form 10: declaration of identity; Form 11: declaration of identity; Form 12: declaration of identity).

For the purposes of a local government election for a principal area, a postal voting statement must be in the appropriate form (or a form to like effect): see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Appendix of Forms (Form of postal voting statement). Where such an election is taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of postal voting statement (for use where there is a joint issue and receipt of postal ballot papers); Form of postal voting statement (for use when a local government poll is combined with another poll but the postal ballot papers are not combined)). For the purposes of a local government election for a parish and community council, the appropriate form (or a form to like effect) must be used: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Appendix of Forms (Form of postal voting statement). Where such an election is taken together with another relevant election or referendum see r 4, Sch 3 Appendix of Forms (Form of postal voting statement (for use where there is a joint issue and receipt of postal ballot papers); Form of postal voting statement (for use when a parish or community poll is combined with another poll but the postal ballot papers are not combined)). Where an election in Wales is taken together with the poll at a relevant election or referendum see the forms set out partly in Welsh and partly in English in the Local Elections (Communities) (Welsh Forms) Order 2004, SI 2004/1233, art 4, Schedule Pt 2 (Form of declaration of identity, ffurflen adnabod); and the Local Elections (Principal Areas) (Welsh Forms) Order 2004, SI 2004/1234, art 4, Schedule Pt 2 (Form of declaration of identity, ffurflen adnabod).

6 Representation of the People Act 1983 Sch 1 r 24(1) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(1). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

The requirement is only for the returning officer to issue the ballot papers in accordance with the statutory scheme and his responsibilities do not go beyond that: *Knight v Nicholls* [2004] EWCA Civ 68,

[2004] 1 WLR 1653, [2004] LGR 524 (considering what is now the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22). As to the issue of delivery see further para 417 post.

7 Representation of the People Act 1983 Sch 1 r 24(2)(a) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(2)(a). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

8 Representation of the People Act 1983 Sch 1 r 24(2)(b) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(2)(b). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

9 Representation of the People Act 1983 Sch 1 r 24(2)(c) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(2)(c). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

10 Representation of the People Act 1983 Sch 1 r 24(2)(d) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(2)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(2)(d). As to the commencement of the amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 see note 4 supra.

11 For the meaning of 'United Kingdom' see para 13 note 1 ante.

12 Representation of the People Act 1983 Sch 1 r 24(4) (as added: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 22(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 22(4). As to the commencement of this provision see note 4 supra.

13 Representation of the People Act 1983 Sch 1 r 24(5) (as added: see note 4 supra). As to the commencement of this provision see note 4 supra.

14 Ie at an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), an election for the return of a local authority mayor, a constituency or regional election for the return of members of the National Assembly for Wales, and a European parliamentary election. For the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante. For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante. There is no provision for absent voting at a poll consequent on a parish meeting on a question involving appointment to office.

15 As to returning officers for local authority mayoral elections see para 359 et seq ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante. In the case of a London Authority election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which for these purposes see para 218 note 8 ante); and in the case of elections for the return of members of the National Assembly for Wales, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a Welsh Assembly election see para 18 note 2 ante). As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see para 18 ante.

16 At an election to return a local authority mayor, the reference is to regulations made under the Representation of the People Act 1983: see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 21. At a London Authority election, the constituency returning officer must, as soon as practicable, send the specified items to those entitled to vote by post, at the addresses shown in the absent voters list (as to which see para 378 ante): see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 20(1), Sch 2 r 21(1), Sch 3 r 21(1) (Sch 1 r 20(1), Sch 2 r 21(1), Sch 3 r 21(1) all substituted by SI 2004/227). In the case of a Welsh Assembly election, the constituency returning officer must as soon as practicable send the specified items to those entitled to vote by post, at the address shown in the absent voters list or the list of postal proxies (as to which see para 378 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 30(1). In the case of a European parliamentary election, the reference in the text is to the requirements set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2: see reg 9(1), Sch 1 para 26.

17 In the case of a person who at an ordinary Welsh Assembly election is entitled to give two votes by post, the reference to a ballot paper must be construed as a reference to both ballot papers: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 30(2).

18 For the purposes of a London Authority election, the appropriate form is set out in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 5 (Form 8: declaration of identity (constituency and mayoral elections otherwise than at ordinary elections)) (amended by SI 2004/227). See also the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 (Form 9A: declaration of identity (GLA election combined with a relevant election or referendum)–(joint issue and receipt of postal ballots)) (added by SI 2004/227); and the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 5 (Form 9B: declaration of identity (GLA election combined with a relevant election or referendum)–(separate issue and receipt of postal ballots)) (added by SI 2004/227). Where the polls at an ordinary London Authority election are taken together, a joint declaration of identity must be issued in the appropriate form: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 4, Sch 4 r 4(b). As to the form prescribed for this purpose see Sch 5 (Form 9: declaration of identity (ordinary elections)) (amended by SI 2004/227).

However, in place of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 5 (Form 8) para 2 (i e except in the case of an election for the return of London members) and Sch 5 (Form 9) paras 2–4, the form may include such alternative information as the Greater London returning officer may decide, relating to:

(1) the system of voting at the Greater London Authority ('GLA') election;
(2) how many votes a voter has at each GLA election; and
(3) the marks to be used and the manner in which they should be used, in order to ensure that a vote is counted for any candidate,

and which complies with r 9, Sch 12 para 4 (as added) (requirements for notices for the guidance of voters: see para 396 ante), as though that information were to be included in a notice: Sch 1 r 20(3), (4), Sch 2 r 21(3), (4), Sch 3 r 21(3), (4) (Sch 1 r 20, Sch 2 r 21, Sch 3 r 21 all substituted by SI 2004/227). Where the Greater London returning officer has decided to provide such alternative information, he must notify the constituency returning officer of the information that is so to appear in the form: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 20(5), Sch 2 r 21(5), Sch 3 r 21(5) (all as so substituted). For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

For the purposes of an election to return a local authority mayor, see the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Appendix of Forms (Form 5: declaration of identity) (Form 5 amended by SI 2004/225).

For the purposes of a Welsh Assembly election, the declaration of identity sent with the postal ballot paper to a postal voter must be: (a) at an ordinary election where a postal voter is entitled to give two votes and where the polls at the elections are not held together with the poll at another election, in the form set out in English and Welsh in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 3(a), Appendix of Forms (Form of declaration of identity referred to in paragraph 3(a)); (b) at an Assembly election where the poll at the election is not held together with the poll at another election (and where head (a) supra does not apply), in the form set out in English and Welsh in Sch 3 para 3(b), Appendix of Forms (Form of declaration of identity referred to in paragraph 3(b)); (c) at an Assembly election (whether or not at an ordinary election where a postal voter is entitled to give two votes) where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at another election under Sch 3 para 2 (issue and receipt of postal ballot papers when polls combined: see para 20 ante), in the form set out in English and Welsh in Sch 3 para 3(c), Appendix of Forms (Form of declaration of identity referred to in paragraph 3(c)); (d) at an ordinary election where a postal voter is entitled to give two votes, the polls at which are taken together with the poll at another election in any part of an Assembly constituency, but where the proceedings on the issue and receipt of postal ballot papers are not taken together under Sch 3 para 2, for use in that part of the constituency in which polls at more than one election are taken together, in the form set out in English and Welsh in Sch 3 para 3(d), Appendix of Forms (Form of declaration of identity referred to in paragraph 3(d)); and (e) at an Assembly election, the poll at which is taken together with the poll at another election in any part of an Assembly constituency, but where the proceedings on the issue and receipt of postal ballot papers are not taken together under Sch 3 para 2, for use in that part of the constituency in which polls at more than one election are taken together (and where head (d) supra does not apply), in the form set out in English and Welsh in Sch 3 para 3(e), Appendix of Forms (Form of declaration of identity referred to in paragraph 3(e)).

For the purposes of a European parliamentary election, the reference in the text is to the form prescribed by the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 28. Accordingly, at a European parliamentary election in England and Wales taken alone, the form of the declaration of identity for these purposes is set out in Sch 2 para 28(a), Appendix of Forms (Form B: declaration of identity); at a European parliamentary election in England and Wales where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at

a relevant election or referendum, the form is set out in Sch 2 para 28(b), Appendix of Forms (Form C: declaration of identity); and at a European parliamentary election in England and Wales where the poll is taken together with the poll at a relevant election or referendum, but where the proceedings on the issue and receipt of postal ballot papers are not, the form is set out in Sch 2 para 28(c), Appendix of Forms (Form D: declaration of identity).

19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 20(1), (2), Sch 2 r 21(1), (2), Sch 3 r 21(1), (2) (all as substituted: see note 16 supra); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 21; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 30(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 26. As to the returning officer's duty to issue postal ballot papers, etc see the case law cited in note 6 supra. As to the marking of the envelopes and the addresses to be used see para 416 post.

20 As to the issue and receipt of postal ballot papers when polls are combined see para 20 ante.

412. Notification of requirement of secrecy at proceedings relating to the issue of postal ballot papers. The returning officer at an election[1] must make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue[2] of postal ballot papers[3] has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to those proceedings[4].

1 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante. At a Welsh Assembly regional election, the functions connected with the issue and receipt of postal ballot papers are to be exercised in relation to each Assembly constituency in an Assembly electoral region by the returning officer for such a constituency: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 4. For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see para 3 note 1 ante.

2 As to proceedings on the issue of postal ballot papers see paras 411 ante, 413 et seq post. For the purposes of Welsh Assembly elections, 'issue' includes the original and any subsequent issue: ibid Sch 3 para 1.

3 For these purposes, 'postal ballot paper' means a ballot paper issued to a postal voter; and 'postal voter' means an elector or proxy who is entitled to vote by post: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 26(1).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 70; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 7; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 32. The text refers to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(4), (6) (as amended) or, in relation to Welsh Assembly elections, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4), (6) or, in relation to European parliamentary elections, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5), (7) (see para 745 post).

413. Time of issue of postal ballot papers, etc. The postal ballot paper[1] and postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity)[2] must be issued by the returning officer[3] as soon as practicable after the registration officer[4] has granted the application to vote by post[5], except where a person is shown in the records kept of those entitled (for a defined period or for an indefinite period) to an absent vote at elections[6] or to vote by post as proxy at elections[7], in which two cases no postal ballot paper and postal voting statement (or declaration of identity, as the case may be) may be issued until after 5 pm on the eleventh day before the date of the poll[8].

At a parliamentary or local government election, an elector or a proxy voter who is shown in the postal voters list or proxy postal voters list may make a request, at any time between the first issue of postal ballots[9] and the close of the poll, that the returning officer confirm[10]: (1) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned[11]; and (2) whether the number of the ballot paper issued to the elector or his proxy has been recorded on either of the lists of

provisionally rejected votes kept by the returning officer[12]. Such a request must be made by any method specified[13], and must include any evidence of the voter's identity requested[14], by the returning officer[15]. Where a request is duly received in this way, the returning officer must satisfy himself that the request has been made by the elector or his proxy and, where he is so satisfied, provide confirmation of the matters under heads (1) and (2) above[16].

1 For the meaning of 'postal ballot paper' see para 412 note 3 ante.
2 As to the postal voting statement and declaration of identity see para 411 ante.
3 As to the returning officer's duty to issue postal ballot papers, etc see para 411 ante; as to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante. As to the marking of the envelopes and the addresses to be used see para 416 post.
4 As to electoral registration officers and the areas for which they act see para 154 et seq ante.
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 8(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 33(2). As to applications to vote by post see para 372 et seq ante.

For the purposes of extending the rights of citizens and nationals of accession states who (subject to the requirement of registration) may vote at local government and European parliamentary elections, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71 applies with modifications: see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 7, Sch 2 para 1(1), (5).
6 Ie the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 3(4) or for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8(4) or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3(4) (whichever is appropriate) (see para 375 ante).
7 Ie the record kept, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 7(6) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(6) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(6) (whichever is appropriate) (see para 384 ante).
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71(1) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 8(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 33(1). See note 5 supra.
9 Ie under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71 (as amended) (see the text and notes 1–8 supra).
10 Ibid reg 84A(1) (reg 84A added by SI 2006/2910).
11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84A(1)(a) (as added: see note 10 supra). As to the returning officer's duty to mark the postal voters list where a postal vote has been returned and the proxy postal voters list where a proxy postal vote has been returned see para 425 post.
12 Ibid reg 84A(1)(b) (as added: see note 10 supra). The text refers to the lists of provisionally rejected votes kept by the returning officer under reg 87(2), (3) (as amended) (see para 430 post).
13 Ibid reg 84A(2)(a) (as added: see note 10 supra).
14 Ibid reg 84A(2)(b) (as added: see note 10 supra).
15 Ibid reg 84A(2) (as added: see note 10 supra).
16 Ibid reg 84A(3) (as added: see note 10 supra).

414. Proceedings on the issue of postal ballot papers. No person may be present at the proceedings on the issue of postal ballot papers[1] at an election[2] other than the returning officer and his clerks[3]. The following procedure must be followed:

(1) each postal ballot paper issued in relation to a Welsh Assembly or European parliamentary election must be stamped with the official mark[4];
(2) in the case of a parliamentary or local government election, the number of the elector[5] as stated in the register must be marked on the corresponding number

list[6], next to the number and unique identifying mark of the ballot paper issued to that elector[7]; and, in the case of any other election, the number of the elector as stated in the register must be marked on the counterfoil attached to the ballot paper[8];

(3) a mark must be placed, in the case of a parliamentary or local government election, in the postal voters list or proxy postal voters list and, in the case of a Welsh Assembly or European parliamentary election, in the absent voters list[9] or the list of postal proxies[10], against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy, but without showing the particular ballot paper issued[11]; and

(4) the number of a postal ballot paper must be marked on the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) sent with that paper[12].

Where the poll at one election is taken with the poll at another election, special provision is made[13].

1 For the meaning of 'postal ballot paper' see para 412 note 3 ante.

2 As to the elections referred to in the text see para 411 notes 1, 14 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 67 (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 5; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 29. As to the returning officers referred to in the text see para 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

In relation to a parliamentary or local government election, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 67 (as amended) is without prejudice to the provisions of the Political Parties, Elections and Referendums Act 2000 ss 6A–6E (as added) (Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices: see para 48 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 67 (as so amended).

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(1). As to the official mark see para 392 ante.

5 For the meaning of 'elector', in relation to a parliamentary or local government election, see para 110 note 2 ante; in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante. As to the number of an elector see para 160 ante.

6 As to the corresponding number list see para 392 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(2) (amended by SI 2006/2910). As to the number and unique identifying mark of the ballot paper referred to in the text see para 392 ante.

8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(2). At a Welsh Assembly election, the name and number of the elector as stated in the register must be called out before such number is marked on the counterfoil: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(1).

9 For these purposes, 'absent voters list' means the list kept for the purposes of a Welsh Assembly election under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 10 or for the purposes of a European parliamentary election under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 5 (see para 378 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

10 For these purposes, 'list of postal proxies' means the list kept, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 12(8) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 7(8) (whichever is appropriate) (see para 386 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(3) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003,

SI 2003/284, Sch 3 para 9(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(3). At a Welsh Assembly election, where postal ballot papers for more than one election are issued together at an ordinary election or at a combined poll under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 2 (see para 20 ante), one mark must be placed in the absent voters list or the list of postal proxies to denote that ballot papers have been issued in respect of all of those elections, except that where ballot papers are not so issued a different mark must be placed in the absent voters list or list of postal proxies to identify the election in respect of which the ballot paper was issued: Sch 3 para 9(3)(a).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(4) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(4). At a Welsh Assembly election, where postal ballot papers for more than one election are issued together at an ordinary election or at a combined poll under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 2 (see para 20 ante), the number of each ballot paper must be marked on the declaration of identity: Sch 3 para 9(3)(b). As to the postal voting statement and declaration of identity see para 411 ante.

13 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(5), (6) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 9(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(5), (6). As to the issue and receipt of postal ballot papers when polls are combined see para 20 ante.

415. Refusal to issue more than one postal ballot paper to each elector. Where the returning officer at an election[1] is satisfied that two or more entries, in the case of a parliamentary or local government election, in the postal voters list or proxy postal voters list or, in the case of a Welsh Assembly or European parliamentary election, in the absent voters list[2] or the list of postal proxies[3], or in each of those lists, relate to the same elector[4], he must not issue more than one ballot paper[5] in respect of the same elector in respect of any one election[6].

1 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

2 For the meaning of 'absent voters list' for these purposes see para 414 note 9 ante.

3 For the meaning of 'list of postal proxies' for these purposes see para 414 note 10 ante.

4 For the meaning of 'elector', in relation to a parliamentary or local government election, see para 110 note 2 ante; in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante.

5 For the meaning of 'postal ballot paper' see para 412 note 3 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 73 (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 10; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 35.

416. Envelopes to be issued to postal voter. An envelope marked with the letter 'B' (a 'covering envelope'[1]) must be issued to a postal voter[2] by the returning officer at an election[3] for the return of the postal ballot paper[4] and the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) issued to him[5]. The returning officer must also issue to a postal voter a smaller envelope (a 'ballot paper envelope'[6]) which must be marked with the letter 'A', the words 'ballot paper envelope' (and the words 'amlen papur pleidleisio', in the case of a Welsh Assembly election), and the number of the ballot paper or, as the case may be, ballot papers (unless, at a parliamentary or local government election, the envelope has a window through which the number on the ballot paper or ballot papers can be displayed)[7].

In the case of a parliamentary or local government election, the address to which the postal ballot paper, postal voting statement and the envelopes are to be sent is, in the case of an elector[8], the address shown in the postal voters list or, in the case of a proxy at such

an election, the address shown in the proxy postal voters list[9]. In the case of a European parliamentary election, the address to which the postal ballot paper, declaration of identity and the envelopes are to be sent is, in the case of an elector[10], the address shown in the absent voters list[11] or, in the case of a proxy at such an election, the address shown in the list of postal proxies[12].

Where the poll at one election is taken with the poll at another election, special provision is made for the marking of the envelopes used[13].

1 'Covering envelope' means the envelope referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 11 or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 r 36 (as the case may be): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

2 For the meaning of 'postal voter' see para 412 note 3 ante.

3 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

4 Or ballot papers, as the case may be. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see para 20 ante). For the meaning of 'postal ballot paper' see para 412 note 3 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(1), (2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 11(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 r 36(1), (2). The text refers to: (1) the ballot paper and the postal voting statement which are issued to a postal voter, in the case of a parliamentary election, under the Representation of the People Act 1983 s 23(1), Sch 1 r 24 (as substituted) or, in the case of a local government election, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 22 or the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 22; or (2) to the ballot paper and the declaration of identity which are issued to a postal voter under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 20(1), (2) (as substituted), r 3(2), Sch 2 r 21(1), (2) (as substituted) or r 3(3), Sch 3 r 21(1), (2) (as substituted) or, in the case of an election of a local authority mayor, under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 21 or, in the case of a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 30(1) or, in the case of a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 26 (whichever is appropriate) (see para 411 ante). As to the postal voting statement and declaration of identity see para 411 ante.

6 'Ballot paper envelope' means the envelope referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 11 or the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 r 36 (as the case may be): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(3) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 11(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 36(3).

8 For the meaning of 'elector', in relation to a parliamentary or local government election, see para 110 note 2 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(7) (added by SI 2002/1871; and amended by SI 2006/752; SI 2006/2910).

Where a person has an anonymous entry in the register, the items specified in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(7) (as added and amended) must be sent (as the case may be) to the address to which postal ballot papers should be sent as shown in the record kept for the purposes of a parliamentary or local government election under the Representation of the People Act 2000 s 12, Sch 4 para 3(4) (see para 375 ante) or in the record kept under Sch 4 para 7(6) (see para 384 ante) or as given in pursuance of an application made under Sch 4 para 4(1) (as amended)

(see para 376 ante) or made under Sch 4 para 7(4)(b) (see para 383 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(8) (added by SI 2006/2910). For the meaning of 'anonymous entry', in relation to a register of electors, see para 174 ante.

No specific provision as to the address to which the postal ballot paper etc is to be sent is made in the case of a Welsh Assembly election.

10 For the meaning of 'elector', in relation to European parliamentary election, see para 125 note 5 ante.

11 For the meaning of 'absent voters list' for these purposes see para 414 note 9 ante.

12 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34(7). For the meaning of 'list of postal proxies' for these purposes see para 414 note 10 ante.

13 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(4); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 11(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 36(4). As to the issue and receipt of postal ballot papers when polls are combined see para 20 ante.

417. Delivery of postal ballot papers by returning officer. For the purposes of delivering postal ballot papers[1], the returning officer at an election[2] may use: (1) a universal postal service provider[3]; (2) a commercial delivery firm[4]; or (3) clerks appointed by a returning officer to aid a presiding officer[5]. Except where head (3) above applies, postage must be pre-paid on the envelopes addressed to the postal voters[6]; and where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom[7], return postage must be pre-paid on all covering envelopes also[8]. Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters must be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged[9]. The returning officer is required only to deliver the postal ballot papers in accordance with this statutory scheme and he is not required to deliver the postal ballot papers into the hands of the electors[10].

1 For the meaning of 'postal ballot paper' see para 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see para 20 ante). As to the marking of the envelopes and the addresses to be used see para 416 ante.

2 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 12(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 38(1)(a). For these purposes, 'universal postal service provider' has the meaning given in the Postal Services Act 2000 to a 'universal service provider' (see POST OFFICE): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 2(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1). For the purposes of a European parliamentary election taking place in the combined region, the Gibraltar Post Office may be used: see Sch 2 para 38(1)(a), (2).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(1)(b).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(1)(c). As to the appointment of presiding officers and their clerks see para 398 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(3). For the meaning of 'postal voter' see para 412 note 3 ante.

7 For the meaning of 'United Kingdom' see para 13 note 1 ante.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(4).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 12(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 38(2).

10 *Knight v Nicholls* [2004] EWCA Civ 68, [2004] 1 WLR 1653, [2004] LGR 524 (election not void due to undelivered postal ballot papers; duty of returning officer satisfied by delivery to mail provider). On its true construction, the statutory scheme (as to which see para 411 ante) requires the returning officer only to deliver the postal ballot papers to an authorised carrier in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended); because the regulations intend the voter to take the risk of non-delivery, a 'safety-net' is provided in the form of the provisions relating to lost postal ballot papers (as to which see para 421 post): *Knight v Nicholls* supra.

418. Sealing up of counterfoils of postal ballot papers and security of special lists. As soon as practicable after the issue of each batch of postal ballot papers[1], the returning officer at an election[2] must make up into a packet, in the case of a parliamentary election, the completed corresponding number lists[3] or, otherwise, the counterfoils of those ballot papers which have been issued and he must seal such a packet[4].

The returning officer at a parliamentary or local government election must, until the last covering envelope has been opened[5], take proper precautions for the security of the marked copy of the postal voters list and the proxy postal voters list[6].

The returning officer at a Welsh Assembly or European parliamentary election must, as soon as practicable after the last batch of postal ballot papers has been issued, make up into a packet the marked copy of the absent voters list[7] and the list of postal proxies[8] and he must seal such a packet[9]. Until the time when the last batch of postal ballot papers has been issued, the returning officer must take proper precautions for the security of the absent voters list and the list of postal proxies[10].

1 For the meaning of 'postal ballot paper' see para 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see para 20 ante). As to the issue of postal ballot papers see para 411 et seq ante.

2 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

3 As to the completed corresponding number lists see para 410 note 10 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75(1) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 13(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 r 37(1).

5 Ie until the time referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(9) (as added) (see para 428 post). For the meaning of 'covering envelope' see para 416 ante.

6 Ibid reg 75(2) (substituted by SI 2006/2910).

7 For the meaning of 'absent voters list' for these purposes see para 414 note 9 ante.

8 For the meaning of 'list of postal proxies' for these purposes see para 414 note 10 ante.

9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 13(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 37(2).

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 13(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 37(3).

419. Instructions for voting by post. In order to vote, a postal voter[1] is instructed to[2]:

(1) record his vote on the ballot paper[3], according to the instructions given;
(2) put the ballot paper (or papers) in the small envelope[4] marked 'A' and seal it;
(3) validate the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) in the prescribed manner;
(4) put the envelope marked 'A', together with the postal voting statement or

declaration of identity, as the case may be, in the larger envelope marked 'B' and return it without delay, so that it is received by the returning officer not later than the close of the poll[5].

The voter is reminded that, at the election in question, he cannot vote in person at a polling station and that it is illegal to vote more than once (otherwise than as proxy) at the same election[6].

Instructions are also given in the event of a postal voter inadvertently spoiling the ballot paper[7].

1 For the meaning of 'postal voter' see para 412 note 3 ante.

2 These instructions appear on the form of the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) (as to which see para 411 note 6 ante). The precise wording may vary according to the election in question.

3 As to the issue of postal ballot papers see para 411 et seq ante.

4 As to the envelopes used for postal voting see para 416 ante.

5 See note 2 supra.

6 See note 2 supra.

7 See note 2 supra.

420. Spoilt postal ballot papers. If a postal voter[1] has inadvertently dealt with his postal ballot paper[2] in such manner that it cannot conveniently be used as a ballot paper or (except in the case of a European parliamentary election) if he has inadvertently dealt with his postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity) in such a manner that it cannot be conveniently used as such, he may return the spoilt ballot paper[3] or statement or declaration, as the case may be, either by hand or by post to the returning officer[4]. Except in the case of a European parliamentary election, where a postal voter exercises this entitlement, he must also return the postal ballot paper or statement or declaration, as the case may be, whether spoilt or not, together with the ballot paper envelope[5] and the covering envelope[6] supplied for the return of the documents[7].

On receipt of any such documents, the returning officer must issue another postal ballot paper (or, as the case may be, ballot papers) except where those documents are received after 5 pm on the day of the poll[8], in which case (except in the case of a European parliamentary election) he may only issue another postal ballot paper (or, as the case may be, ballot papers) if the postal voter returned the documents by hand[9]. Any such postal ballot paper or postal voting statement (or, in the case of an election that is not a parliamentary or local government election, declaration of identity), whether spoilt or not, which has been returned must be immediately cancelled[10]; and, as soon as practicable after cancelling those documents, the returning officer must make up those documents in a separate packet and he must seal the packet[11]. If, on any subsequent occasion, documents are cancelled in this way, the sealed packet must be opened and the additional cancelled documents included in it and the packet must be again made up and sealed[12].

The returning officer must enter in a list kept for the purpose (the 'list of spoilt postal ballot papers'): (1) the name and number of the elector[13] as stated in the register (or, in the case of an elector at a parliamentary or local government election who has an anonymous entry, his electoral number alone)[14]; (2) the number of the replacement postal ballot paper (or papers) issued[15]; and (3) where the postal voter whose ballot paper is spoilt is a proxy[16], his name and address[17].

Where postal ballot papers for more than one election have been issued together, special provision is made as to the treatment of spoilt ballot papers[18].

1 For the meaning of 'postal voter' see para 412 note 3 ante.

2 For the meaning of 'postal ballot paper' see para 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see para 20 ante). As to the issue of postal ballot papers see para 411 et seq ante.

3 'Spoilt ballot paper' means a ballot paper referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(1) (as substituted), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 14(1) (as substituted) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 39(1) (as the case may be): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(1) (reg 77(1), (2) substituted by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(1) (Sch 3 para 14(1), (2) substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(1). As to the postal voting statement and declaration of identity see para 411 ante. As to the returning officers and the elections for which they are appointed see para 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

5 For the meaning of 'ballot paper envelope' see para 416 ante.

6 For the meaning of 'covering envelope' see para 416 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(2) (as substituted and amended: see note 4 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(2) (as substituted: see note 4 supra).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(3) (amended by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(3) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(3).

Specified provisions relating to the issue of postal ballot papers apply to the issue of replacement postal ballot papers: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(4). In relation to a parliamentary or local government election, the provisions so specified are the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72 (as amended) (except reg 72(3)) (see para 414 ante) and, subject to reg 77(7) (as substituted) (see note 9 infra), regs 74–76; in relation to a Welsh Assembly election, the provisions so specified are the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 9–13; and, in relation to a European parliamentary election, the provisions so specified are the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34 (except para 34(3)) and, subject to Sch 2 para 39(7), Sch 2 paras 36–38 (see paras 416–418 ante).

In the case of a European parliamentary election, where a postal voter applies in person, the local returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with the statutory scheme (as to which see para 417 ante): Sch 2 para 39(7). As to elections other than European parliamentary elections see note 9 infra.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(3A) (added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(3A) (added by SI 2006/884).

Except in the case of a European parliamentary election (as to which see note 8 supra), the returning officer, instead of delivering a replacement postal ballot paper in accordance with the statutory scheme (as to which see para 417 ante), may hand a replacement postal ballot paper to a postal voter who applies in person by 5 pm on the day before the day of the poll (and he may only hand a replacement postal ballot paper to a postal voter who applies in person after 5 pm on the day before the day of the poll): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(7) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(7) (substituted by SI 2006/884).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(5) (substituted by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(5) (substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(5).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(6).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(6).

13 For the meaning of 'elector', in relation to a parliamentary or local government election, see para 110 note 2 ante; in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante. As to the number of an elector see para 160 ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(8)(a) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(8)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(8)(a). For the meaning of 'anonymous entry', in relation to a register of electors, see para 174 ante.

15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(8)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(8)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(8)(b).

16 As to applications to vote by post or by proxy (or both) see para 372 et seq ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(8)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(8)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(8)(c).

18 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(2) (as substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 14(2) (as substituted); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 39(2). As to the issue and receipt of postal ballot papers when polls are combined see para 20 ante.

421. Lost postal ballot papers. Where a postal voter[1], by the fourth day before the day of the poll at an election[2], claims either to have lost or not to have received: (1) his postal ballot paper[3]; or (2) at a parliamentary or local government election, the postal voting statement (or, in the case of a Welsh Assembly election, the declaration of identity)[4]; or (3) one or more of the envelopes supplied for their return[5], he may apply (whether or not in person) to the returning officer[6] for a replacement ballot paper[7]. The voter must include evidence of his identity with any such application[8].

Except in relation to a European parliamentary election, where a postal voter exercises his entitlement to a replacement ballot paper, he must return the other documents which he has received and which have not been lost[9]. Any such postal ballot paper or postal voting statement (or declaration of identity, as the case may be) which has been returned must be immediately cancelled[10]; and, as soon as practicable after cancelling those documents, the returning officer must make up those documents in a separate packet and he must seal the packet[11]. If, on any subsequent occasion, documents are cancelled in this way, the sealed packet must be opened and the additional cancelled documents included in it and the packet must be again made up and sealed[12].

Where the application for a replacement ballot paper is received by the returning officer before 5 pm on the day of the poll and the returning officer is satisfied as to the voter's identity and he has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the postal voting statement (or declaration of identity, as the case may be), or one or more of the envelopes provided for their return, he must issue another postal ballot paper or, as the case may be, postal ballot papers[13]. However, except in the case of a European parliamentary election, where the application is received by the returning officer after 5 pm on the day before the day of the poll, he must only issue another postal ballot paper or, as the case may be, other ballot papers if the postal voter applied in person[14].

The returning officer must enter in a list kept for the purpose (the 'list of lost postal ballot papers'): (a) the name and number of the elector[15] as stated in the register (or, in the case of an elector at a parliamentary or local government election who has an

anonymous entry, his electoral number alone)[16]; (b) the number of the replacement postal ballot paper (or papers) issued[17]; and (c) where the postal voter whose ballot paper is lost is a proxy[18], his name and address[19].

Where postal ballot papers for more than one election have been issued together, special provision is made as to the treatment of lost ballot papers[20].

1 For the meaning of 'postal voter' see para 412 note 3 ante.

2 As to the elections referred to in the text see para 411 notes 1, 14 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(a) (reg 78(1) substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 15(1)(a) (Sch 3 para 15(1) substituted by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 40(1). For the meaning of 'postal ballot paper' see para 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see para 20 ante). As to the issue of postal ballot papers see para 411 et seq ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(b) (as substituted (see note 3 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(1)(b) (as substituted: see note 3 supra). In relation to a European parliamentary election, there is no explicit provision made for the postal voter to claim that the declaration of identity was either lost or not received.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(c) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(1)(c) (as substituted: see note 3 supra). As to the envelopes mentioned in the text see para 416 ante. In relation to a European parliamentary election, there is no explicit provision made for the postal voter to claim that the envelopes mentioned in the text were either lost or not received.

6 As to the returning officers and the elections for which they are appointed see para 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1) (as substituted: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(1) (as substituted: see note 3 supra); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(1). The scheme set out in the text provides a 'safety-net' for the voter, who necessarily takes the risk of non-delivery of his postal ballot paper: *Knight v Nicholls* [2004] EWCA Civ 68, [2004] 1 WLR 1653, [2004] LGR 524.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(2).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2A) (reg 78(2A)–(2C) added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2A) (Sch 3 para 15(2A)–(2C) added by SI 2006/884).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2B) (as added (see note 9 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2B) (as added: see note 9 supra).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2C) (as added: see note 9 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2C) (as added: see note 9 supra).

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2C) (as added: see note 9 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2C) (as added: see note 9 supra).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(3) (amended by SI 2006/752; SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(3) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(3). In the case of a Welsh Assembly election, where the constituency returning officer issues another postal ballot paper (or, as the case may be, postal ballot papers) as mentioned in the text, the postal ballot paper which has been lost or not received is void and of no effect: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(7) (amended by SI 2006/884).

Specified provisions relating to the issue of postal ballot papers apply to the issue of replacement postal ballot papers: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3

para 15(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(5). In relation to a parliamentary or local government election, the provisions so specified are the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72 (as amended) (except reg 72(3)) (see para 414 ante) and, subject to reg 78(6) (as substituted) (see note 14 infra), regs 74–76; in relation to a Welsh Assembly election, the provisions so specified are the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 9–13; and, in relation to a European parliamentary election, the provisions so specified are the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 34 (except para 34(3)) and, subject to Sch 2 para 40(6), Sch 2 paras 36–38 (see paras 416–418 ante).

In the case of a European parliamentary election, where a postal voter applies in person, the local returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with the statutory scheme (as to which see para 417 ante): Sch 2 r 40(6). As to elections other than European parliamentary elections see note 14 infra.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(3A) (added by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(3A) (added by SI 2006/884).

Except in the case of a European parliamentary election (as to which see note 13 supra), the returning officer at a parliamentary or Welsh Assembly election, instead of delivering a replacement postal ballot paper in accordance with the statutory scheme (as to which see para 417 ante), may hand such a replacement to a postal voter who applies in person by 5 pm on the day before the day of the poll (and he may only hand a replacement postal ballot paper to a postal voter who applies in person after 5 pm on the day before the day of the poll): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(6) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(6) (substituted by SI 2006/884).

15 For the meaning of 'elector', in relation to a parliamentary or local government election, see para 110 note 2 ante; in relation to a Welsh Assembly election, see para 124 note 4 ante; and, in relation to European parliamentary election, see para 125 note 5 ante. As to the number of an elector see para 160 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(a) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(4)(a).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(4)(b) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(4)(b). In the case of a Welsh Assembly election, the number of the postal ballot paper which has been lost or not received must also be entered on the list: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(4)(b) (as so amended).

18 As to applications to vote by post or by proxy (or both) see para 372 et seq ante.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(c) (substituted by SI 2006/752); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(4)(c) (amended by SI 2006/884); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 40(4)(c).

20 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2A) (as added); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 15(2A) (as added). As to the issue and receipt of postal ballot papers when polls are combined see para 20 ante.

(B) Receipt of Postal Ballot Papers

422. Persons entitled to be present at receipt of postal ballot papers. No person may be present at the proceedings on the receipt of postal ballot papers at an election[1] other than[2]: (1) the returning officer and his clerks[3]; (2) a candidate[4]; (3) an election agent[5] or any person appointed to attend in his place[6] or, at a parish or community council election[7], any person appointed by the candidate to attend at those proceedings[8]; (4) any agents who have been duly appointed[9]; and (5) in the case of a European parliamentary election, representatives of the Electoral Commission[10].

For the purposes of head (4) above, each candidate[11] or each election agent[12] (as the case may be) may appoint one or more agents to attend the proceedings on the receipt of postal ballot papers up to the number he may be authorised by the returning officer

to appoint[13]. The number authorised, however, must be the same for each person standing nominated[14]. Written notice of the appointment stating the names and addresses of the persons appointed must be given to the returning officer by the person with the power of appointment[15] before the time fixed for the opening of the postal voters' ballot boxes[16].

If an agent dies or becomes incapable of acting, the candidate (or election agent, as the case may be)[17] may appoint another agent in his place and must forthwith give to the returning officer written notice of the name and address of the agent appointed[18]. Except in relation to a European parliamentary election, where candidates have the power of appointment, agents may be appointed and notice of appointment given to the returning officer by the candidate's election agent instead of by the candidate[19]. In relation to the receipt of postal ballot papers, references to agents[20] are to be taken as references to agents whose appointments have been duly made and notified and, where a restriction on the number of appointees applies[21], who are within the number authorised by the returning officer[22].

A candidate[23] may himself do any act or thing which any agent, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing[24]. Where, in relation to the receipt of postal ballot papers, any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person at the time and place appointed for the purpose will not, if the act or thing is otherwise duly done, invalidate the act or thing done[25].

Where postal ballot papers for more than one election have been issued together, special provision is made as to the receipt of lost ballot papers[26].

1 As to the elections referred to in the text see para 411 notes 1, 14 ante. For the meaning of 'postal ballot paper' see para 412 note 3 ante. As to proceedings relating to the receipt of postal ballot papers see para 423 et seq post.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68 (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 6(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 30.

In relation to a parliamentary or local government election, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68 (as amended) is without prejudice to the provisions of the Political Parties, Elections and Referendums Act 2000 ss 6A–6E (as added) (Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices: see para 48 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68 (as so amended).

3 Ibid reg 68(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(a). As to the returning officers and clerks referred to in the text see para 411 notes 1, 15 ante.

In the case of a Welsh Assembly regional election, a regional returning officer also may be present at the proceedings on the receipt of postal ballot papers: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(b). See also para 412 note 1 ante. For the meaning of 'regional election', in relation to a Welsh Assembly election, see para 3 note 1 ante; and for the meaning of 'regional returning officer' see para 18 note 2 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(b). For the meaning of 'candidate' generally see para 237 ante.

5 As to the appointment of election agents see para 238 et seq ante.

6 Except at a European parliamentary election, the candidate makes this appointment (see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(c); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(d)(i)); in the case of a Welsh Assembly regional election, the appointment is made either by an individual candidate or by any or all of a group of party list candidates (see Sch 3 para 6(1)(d)(ii)). For the meaning of references to a group of party list candidates, in relation to a Welsh Assembly election, see para 237 note 23 ante; and for the meaning of 'individual candidate' see para 237 note 23 ante.

At a European parliamentary election, the appointment is made by the election agent or a sub-agent: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(c). As to the nomination of sub-agents for European parliamentary elections see para 248 ante.

7 There is no provision for election agents at parish or community council elections: see para 238 note 3 ante. As to the election of councillors for parish or community councils see para 207 et seq ante.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(c).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(1)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 30(d). As to the appointment of such agents see the text and notes 11–25 infra.

10 Ibid Sch 2 para 30(e). As to the Electoral Commission see para 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see para 48 ante.

11 At a Welsh Assembly election, the reference in the text is to each candidate in the case of a constituency election (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2)(a)) and each individual candidate in the case of a regional election (see Sch 3 para 6(2)(b)).

At a European parliamentary election, only agents or sub-agents of candidates may appoint: see note 12 infra.

12 In the case of a Welsh Assembly regional election, each election agent for a group of party list candidates may make the appointment: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2)(b).

At a European parliamentary election, the election agent (or sub-agent) of each registered party standing nominated or each individual candidate may make the appointment: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(1). For the meaning of 'registered party' in the context of a European parliamentary election see para 237 note 30 ante; and for the meaning of 'individual candidate' see para 237 note 32 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(1).

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(1). The number authorised must be the same for each candidate except: (1) at a Welsh Assembly regional election, the number must the same for each individual candidate and election agent for a group of party list candidates (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(2); and notes 11–12 supra); and (2) at a European parliamentary election, the number must the same for each individual candidate or each registered party standing nominated (see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(1); and note 12 supra).

15 Ie the candidate (see note 11 supra) or the election agent (see note 12 supra) or, in the case of a European parliamentary election only, the sub-agent (see note 12 supra).

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(2). As to the opening of the postal voters' ballot boxes see para 427 post.

17 See note 12 supra.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(4).

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(6).

20 The expression 'agent' in relation to the receipt of postal ballot papers includes the election agent and a person appointed to attend in the election agent's place: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 64; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 1; and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 26(1).

21 See the text and notes 11–14 supra.

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(5).

23 Ie in the case of a Welsh Assembly regional election, an individual candidate or one candidate from a group of party list candidates: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(8).

24 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(6).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(9); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 31(7).

26 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 69(3); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 6(4); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 30(f), 31(3). As to the issue and receipt of postal ballot papers when polls are combined see para 20 ante.

423. Notification of requirement of secrecy at proceedings relating to the receipt of postal ballot papers. The returning officer at an election[1] must make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the receipt[2] of postal ballot papers[3] has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to those proceedings[4].

1 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante. At a Welsh Assembly regional election, the functions connected with the issue and receipt of postal ballot papers are to be exercised in relation to each Assembly constituency in an Assembly electoral region by the returning officer for such a constituency: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 4. For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see para 3 note 1 ante.

2 As to proceedings on the receipt of postal ballot papers see para 424 et seq post.

3 For the meaning of 'postal ballot paper' see para 412 note 3 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 70; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 7; European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 32. The text refers to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(4), (6) (as amended) or, in relation to Welsh Assembly elections, the requirement set out in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4), (6) or, in relation to European parliamentary elections, the requirement set out in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5), (7) (see para 745 post).

424. Provision of postal ballot boxes and receptacles. The returning officer at an election[1] must provide a separate ballot box for: (1) the reception of the covering envelopes[2] when returned by the postal voters[3] (the 'postal voters' ballot box')[4]; and (2) the reception of postal ballot papers[5] (the 'postal ballot box')[6]. Each such ballot box must be marked 'postal voters' ballot box' or 'postal ballot box', as the case may be, and with the name of the constituency[7] or electoral area or areas[8] or local counting area[9] for which the election or elections are held[10]. The postal ballot box must be shown to the agents[11] present on the occasion of opening the first postal voters' ballot box as being empty[12] and must then be locked by the returning officer (if it has a lock) and sealed with his seal and the seals of such of the agents as desire to affix their seals in such manner as to prevent the box being opened without breaking the seal[13].

The returning officer must also provide: (a) the receptacle for rejected votes[14]; (b) the receptacle for postal voting statements (at a parliamentary or local government election) or the receptacle for declarations of identity (otherwise)[15]; (c) the receptacle for ballot paper envelopes[16]; (d) the receptacle for rejected ballot paper envelopes[17]; and (e) in relation to parliamentary and local government elections only: (i) the receptacle for rejected votes (verification procedure)[18]; and (ii) the receptacle for postal voting statements (verification procedure)[19].

The returning officer must take proper precautions for the safe custody of every such ballot box and receptacle[20].

1 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.
2 For the meaning of 'covering envelope' see para 416 ante.
3 For the meaning of 'postal voter' see para 412 note 3 ante.
4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 paras 1, 17(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 paras 26(1), 43(1)(a).
5 For the meaning of 'postal ballot paper' see para 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see para 20 ante). As to the issue of postal ballot papers see para 411 et seq ante.
6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(1)(b).
7 For the meaning of 'constituency' in relation to a parliamentary election see para 9 ante; for the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see para 3 note 1 ante; and for the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 ante.
8 For the meaning of 'electoral area' see para 10 ante.
9 For the meaning of 'local counting area' see para 230 note 11 ante.
10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(2).
11 As to the appointment of agents to be present at the receipt of postal ballot papers see para 422 ante.
12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(3).
13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(4).
14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(5)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 17(5)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 43(5)(a).
15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(5)(b) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 17(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 43(5)(b).
16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(5)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 17(5)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 43(5)(c).
17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(5)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 17(5)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 43(5)(d).
18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(5)(e) (added by SI 2006/2910). As to the verification procedure see para 428 post.
19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(5)(f) (added by SI 2006/2910). As to postal voting statements see para 411 ante.
20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 17(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 43(6).

425. Return of postal ballot papers, etc to returning officer. A postal ballot paper or postal voting statement (or, in the case of an election that is not a parliamentary or local government election, the declaration of identity)[1] is not taken to be duly returned at an election[2] unless it is returned in the prescribed manner and reaches either the returning officer[3] or a polling station in the constituency[4] or electoral area or areas[5] or local counting area[6] in question (as the case may be) before the close of the poll[7].

Where a covering envelope[8] (or an envelope which is stated to include a postal vote) is received by a returning officer (whether by hand or by post) before the close of the poll, he must, immediately on receipt, place it unopened in a postal voters' ballot box[9]. Where an envelope, other than a covering envelope issued by the returning officer, has been opened and it contains a ballot paper envelope[10], postal voting statement (or declaration of identity, as the case may be) or ballot paper, the first-mentioned envelope, together with its contents, must be placed in a postal voters' ballot box[11].

Where a postal ballot paper or postal voting statement (or declaration of identity, as the case may be) has been returned to a polling station, the presiding officer[12] of that station must deliver, or cause to be delivered, any such paper or statement (or declaration, as the case may be) to the returning officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets of ballot papers and other documents which he is required to prepare on the close of poll at a polling station[13]. However, except in relation to a European parliamentary election, the returning officer may collect, or cause to be collected, any postal ballot paper or postal voting statement (or declaration of identity, as the case may be) which the presiding officer of a polling station would otherwise be required in this way to deliver or cause to be delivered to him[14]; and, where the returning officer collects, or causes to be collected, any postal ballot paper or postal voting statement (or declaration of identity, as the case may be) in this way, the presiding officer must first make it (or them) up into a packet (or packets) sealed with his own seal and the seals of such polling agents[15] as are present and desire to affix their seals[16].

At a parliamentary election, or at a local government election for a principal area, parish or community council, where a postal vote has been returned in respect of a person who is entered on the postal voters list[17], or where a proxy postal vote[18] has been returned in respect of a proxy who is entered on the proxy postal voters list[19], the returning officer must mark the list in the manner prescribed by regulations[20].

1 For the meaning of 'postal ballot paper' see para 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see para 20 ante). As to the issue of postal ballot papers see para 411 et seq ante. As to the postal voting statement and declaration of identity see para 411 ante.

2 As to the elections referred to in the text see para 411 notes 1, 14 ante.

3 As to the returning officers referred to in the text see para 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

4 For the meaning of 'constituency' in relation to a parliamentary election see para 9 ante; for the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see para 3 note 1 ante; and for the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 ante.

5 For the meaning of 'electoral area' see para 10 ante.

6 For the meaning of 'local counting area' see para 230 note 11 ante.

7 In relation to a parliamentary or local government election (except a London Authority election) see para 432 post; in relation to a London Authority election see para 443 post; in relation to a local authority or London mayoral election see para 451 post; in relation to a Welsh Assembly election see para 461 post; and in relation to a European parliamentary election see para 469 post.

8 For the meaning of 'covering envelope' see para 416 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 18(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 44(1). For the meaning of 'postal voters' ballot box' see para 424 ante.

10 For the meaning of 'ballot paper envelope' see para 416 ante.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(2) (amended by Si 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 18(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 44(2).

12 As to the appointment of presiding officers and their clerks see para 398 ante.

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (amended by SI 2006/752; SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 50(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 41(3). As to the procedure on the close of poll at a polling station see para 410 ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(4) (reg 79(4), (5) added by SI 2006/752; and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, Sch 5 para 50(6A) (Sch 5 para 50(6A), (6B) added by SI 2006/884).

15 As to the appointment of polling agents see para 399 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(5) (as added and amended: see note 14 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(6B) (as added: see note 14 supra).

17 Representation of the People Act 1983 Sch 1 r 31A(1)(a) (Sch 1 r 31A added by the Electoral Administration Act 2006 s 45(1), (2)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 29(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 29(1)(a). For the purposes of a parliamentary election, regulations may prescribe the circumstances in which a postal vote is or is not to be treated as having been returned: Representation of the People Act 1983 Sch 1 r 31A(2) (as so added). In this context, in relation to a parliamentary election, the Representation of the People Act 1983 Sch 1 r 45(1B) (as added and amended) and, in relation to a local government election for a principal area, the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3) and, in relation to a local government election for a parish or community council, the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3) (see para 432 post) do not apply for the purpose of determining whether a postal vote or a proxy postal vote is returned: Representation of the People Act 1983 Sch 1 r 31A(3) (as so added); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 29(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 29(2). As to the postal voters list see para 378 ante.

Any amendment effected by the Electoral Administration Act 2006 s 45 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

18 As to applications to vote by proxy see para 372 et seq ante.

19 Representation of the People Act 1983 Sch 1 r 31A(1)(b) (as added: see note 17 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 29(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 29(1)(b). For the purposes of a parliamentary election, regulations may prescribe the circumstances in which a proxy postal vote is or is not to be treated as having been returned: Representation of the People Act 1983 Sch 1 r 31A(2) (as so added). See note 17 supra. As to the proxy postal voters list see para 386 ante.

20 Ibid s 202(1), Sch 1 r 31A(1) (as added: see note 17 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 29(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 29(1). See note 17 supra. The list referred to in the text must be marked in the manner prescribed by regulations made under the Representation of the People Act 1983: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84 (as added and amended); and para 428 note 10 post.

426. Notice of opening of postal voters' ballot box and covering envelopes.

The returning officer at an election[1] must give to the candidate[2] or to each election agent[3] (as the case may be) not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box[4] and the envelopes contained in it is to be opened[5]. Such a notice must specify the time and place at which such an opening is to take place[6] and the number of agents who may be appointed[7] to attend each opening[8].

1 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

2 For the meaning of 'candidate' generally see para 237 ante. At a Welsh Assembly election, the person to whom the notice mentioned in the text must be given is the candidate at elections for return as a constituency member (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 16(1)(a)); and, except in the case of an election to fill a vacancy in the

seat of a constituency member, an individual candidate for return as a regional member (Sch 3 para 16(1)(b)). The notice is not given to a candidate in the case of a European parliamentary election (as to which see note 3 infra).

3 At a Welsh Assembly election, except in the case of an election to fill a vacancy in the seat of a constituency member, the reference in the text is to the election agent for each registered party standing nominated: see ibid Sch 3 para 16(1)(b).

At a European parliamentary election, the notice mentioned in the text must be given to each election agent, or where sub-agents have been appointed, each sub-agent: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 42(1).

4 For the meaning of 'postal voters' ballot box' see para 424 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 16(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 42(1).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 16(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 42(2)(a).

7 As to the appointment of agents to be present at the receipt of postal ballot papers see para 422 ante.

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 16(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 42(2)(b).

427. Opening of postal voters' ballot box. Each postal voters' ballot box[1] at an election[2] must be opened by the returning officer[3] in the presence of the agents[4], if in attendance[5]. So long as the returning officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes[6] up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him[7]. The last postal voters' ballot box and the postal ballot box[8] must be opened at the counting of the votes[9] or, in the case of a European parliamentary election, at the verification of the ballot paper accounts[10].

A returning officer at a parliamentary or local government election may on any occasion at which a postal voters' ballot box is opened[11] undertake verification of the personal identifiers[12] on any postal voting statement[13] that has on a prior occasion been placed in the receptacle for postal voting statements[14]. Where a returning officer undertakes additional verification of personal identifiers[15], he must remove as many postal voting statements from the receptacle for postal voting statements as he wishes to subject to additional verification[16] and compare the date of birth and the signature on each such postal voting statement against the date of birth and signature contained in the personal identifiers record relating to the person to whom the postal ballot paper was addressed[17]. Where the returning officer is no longer satisfied that the postal voting statement has been duly completed, he must mark the statement 'rejected' and, before placing the postal voting statement in the receptacle for rejected votes (verification procedure)[18], he must[19]: (1) show it to the agents and must permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed, and if any of them object to his decision, he must add the words 'rejection objected to'[20]; (2) open any postal ballot box and retrieve the ballot paper corresponding to the ballot paper number on the postal voting statement[21]; (3) show the ballot paper number on the retrieved ballot paper to the agents[22]; and (4) attach the ballot paper to the postal voting statement[23]. Whilst retrieving a ballot paper in this way[24], the returning officer and his staff must keep the ballot papers face downwards and must take proper precautions for preventing any person seeing the votes made on the ballot papers[25], and they must not be permitted to view the corresponding number list used at the issue of postal ballot papers[26]. Following the removal of a postal ballot paper from a postal ballot box, the returning officer must lock and reseal the postal ballot box in the presence of the agents[27].

Where it appears to the returning officer at a parliamentary or local government election that a cancelled postal ballot paper[28] has been placed in a postal voters' ballot box, in the receptacle for ballot paper envelopes[29] or in a postal ballot box[30], he must, on at least one occasion on which a postal voters ballot box is opened[31], also open any postal ballot box and the receptacle for ballot paper envelopes[32], and: (a) retrieve the cancelled ballot paper[33]; (b) show the ballot paper number on the cancelled ballot paper to the agents[34]; (c) retrieve the postal voting statement that relates to a cancelled ballot paper from the receptacle for postal voting statements[35]; (d) attach any cancelled postal ballot paper to the postal voting statement to which it relates[36]; (e) place the cancelled documents in a separate packet and deal with that packet in the manner provided for in relation to spoilt postal ballot papers[37]; and (f) unless the postal ballot box has been opened for the purposes of the counting of votes[38], re-lock the postal ballot box (if it has a lock) and reseal it in the presence of the agents[39]. Whilst retrieving a cancelled ballot paper in this way[40], the returning officer and his staff must keep the ballot papers face downwards and must take proper precautions for preventing any person seeing the votes made on the ballot papers[41], and they must not be permitted to view the corresponding number list used at the issue of postal ballot papers[42].

1 For the meaning of 'postal voters' ballot box' see para 424 ante.
2 Ie at a parliamentary election, local government election, Welsh Assembly election or European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante. As to elections to the National Assembly for Wales see para 220 et seq ante. As to European parliamentary elections see para 224 et seq ante.
3 As to returning officers for parliamentary elections see para 355 et seq ante; and as to returning officers for local government elections see para 359 et seq ante. For the purposes of Welsh Assembly elections, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a Welsh Assembly election see para 18 note 2 ante); and, in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election, see also para 412 note 1 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante.
4 As to the appointment of agents to be present at the receipt of postal ballot papers see para 422 ante.
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 19(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 45(1).
6 For the meaning of 'covering envelope' see para 416 ante.
7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 19(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 45(2).
8 For the meaning of 'postal ballot box' see para 424 ante.
9 As to the counting of votes at a parliamentary or local government election (except a London Authority election) see para 432 post; in relation to a London Authority election see para 443 post; in relation to a local authority or London mayoral election see para 451 post; in relation to a Welsh Assembly election see para 461 post.
10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 19(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 45(3). As to the verification of the ballot paper accounts at a European parliamentary election see para 469 post.
11 Ie opened in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83 (see the text and notes 1–10 supra).
12 As to personal identifiers see para 371 ante.
13 As to the postal voting statement see para 411 ante.
14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85B(1) (reg 85B added by SI 2006/2910). As to the receptacle for postal voting statements see para 424 ante.
15 Ie additional to the mandatory procedure according to which a percentage (not less than 20%) of the covering envelopes recorded by the returning officer when a postal voters' ballot box is opened at a parliamentary or local government election is set aside for personal identifier verification: see para 428 post.
16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85B(2)(a) (as added: see note 14 supra).

17 Ibid reg 85B(2)(b) (as added: see note 14 supra). For the meaning of 'postal ballot paper' see para 412 note 3 ante. As to the personal identifiers record see para 371 ante.
18 As to the receptacle for rejected votes (verification procedure) see para 424 ante.
19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85B(3) (as added: see note 14 supra).
20 Ibid reg 85B(3)(a) (as added: see note 14 supra).
21 Ibid reg 85B(3)(b) (as added: see note 14 supra). As to the issue of postal voting statements see para 411 ante.
22 Ibid reg 85B(3)(c) (as added: see note 14 supra).
23 Ibid reg 85B(3)(d) (as added: see note 14 supra).
24 Ie in accordance with ibid reg 85B(3) (as added) (see the text and notes 18–23 supra).
25 Ibid reg 85B(5)(a) (as added: see note 14 supra).
26 Ibid reg 85B(5)(b) (as added: see note 14 supra). As to the corresponding number list used at the issue of ballot papers see para 392 ante.
27 Ibid reg 85B(4) (as added: see note 14 supra).
28 As to cancelled postal ballot papers see para 421 ante.
29 As to the provision of a receptacle for ballot paper envelopes see para 424 ante.
30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86A(1) (reg 86A added by SI 2006/2910).
31 See note 11 supra.
32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86A(2) (as added: see note 30 supra).
33 Ibid reg 86A(2)(a) (as added: see note 30 supra).
34 Ibid reg 86A(2)(b) (as added: see note 30 supra).
35 Ibid reg 86A(2)(c) (as added: see note 30 supra).
36 Ibid reg 86A(2)(d) (as added: see note 30 supra).
37 Ibid reg 86A(2)(e) (as added: see note 30 supra). The text refers to the manner provided for by reg 77(6) (see para 420 ante).
38 Ie under the Representation of the People Act 1983 s 23(1), Sch 1 r 45 (as amended) (see para 432 post).
39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86A(2)(f) (as added: see note 30 supra).
40 Ie in accordance with ibid reg 86A(2) (as added) (see the text and notes 31–39 supra).
41 Ibid reg 86A(3)(a) (as added: see note 30 supra).
42 Ibid reg 86A(3)(b) (as added: see note 30 supra).

428. Opening of covering envelopes. When a postal voters' ballot box[1] is opened at a parliamentary or local government election[2], the returning officer[3] must count and record the number of covering envelopes[4] (including any envelope which is stated to include a postal vote and any other envelope[5] which has been found to contain voting documents)[6]; he must set aside for personal identifier verification[7] a percentage, not less than 20 per cent, of the envelopes recorded on that occasion[8]; and he must open separately each covering envelope (including any envelope[9] which has been found to contain voting documents)[10].

Where the covering envelope does not contain the postal voting statement[11] separately, the returning officer must open the ballot paper envelope[12] to ascertain whether the postal voting statement is inside[13]. Where a covering envelope does not contain both a postal voting statement (whether separately or not) and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers), the returning officer must mark the covering envelope 'provisionally rejected', attach its contents (if any) and place it in the receptacle for rejected votes[14]. Where this provision does not apply[15] but where an envelope contains the postal voting statement of an elector with an anonymous entry[16], the returning officer must set aside that envelope and its contents for personal identifier verification[17].

As soon as practicable after the last covering envelope has been opened, the returning officer must make up into a packet the copy of the marked postal voters list and proxy postal voters list[18] and he must seal the packet[19].

When a postal voters' ballot box is opened at a Welsh Assembly[20] or European parliamentary election[21], the returning officer[22] must count and record the number of covering envelopes and then open separately each covering envelope (including any other envelope[23] which has been found to contain a ballot paper envelope, declaration of identity[24] or ballot papers)[25].

Where the covering envelope does not contain the declaration of identity separately, the returning officer must open the ballot paper envelope to ascertain whether the declaration of identity is inside[26]. Where a covering envelope does not contain both a declaration of identity (whether separately or not) and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers), the returning officer must mark the covering envelope 'provisionally rejected', attach its contents (if any) and place it in the receptacle for rejected votes[27].

Where, at any election[28], a covering envelope[29] contains both a postal voting statement (or declaration of identity, as the case may be) and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers)[30], the returning officer at a parliamentary or local government election must satisfy himself that the postal voting statement[31] is duly completed[32] and the returning officer at a Welsh Assembly or European parliamentary election must satisfy himself that the declaration of identity has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address[33]. Where the returning officer is not so satisfied, he must mark the statement (or declaration, as the case may be) 'rejected', attach to it the ballot paper envelope (or, if there is no such envelope, the ballot paper or ballot papers), and show it to the agents (and, if any of them objects to his decision, he must add the words 'rejection objected to') before placing the statement (or declaration, as the case may be) in the receptacle for rejected votes[34]. The returning officer must then examine the number (or numbers) on the postal voting statement (or, in the case of an election that is not a parliamentary or local government election, on the declaration of identity) against the number (or numbers) on the ballot paper envelope and, where they are the same, he must place the statement in the receptacle for postal voting statements (or the declaration in the receptacle for declarations of identity, as the case may be)[35] and the ballot paper envelope in the receptacle for ballot paper envelopes[36]. Where the number (or numbers) on a valid postal voting statement (or on a valid declaration of identity, as the case may be) is (or are) not the same as the number (or numbers) on the ballot paper envelope or where that envelope has no number on it (or only one number when the declaration or statement, as the case may be, has more than one), the returning officer must open the envelope[37]. Where the ballot paper envelope has been opened in this way or where it has been opened[38] in order to ascertain whether the postal voting statement (or declaration of identity, as the case may be) is inside[39], the returning officer must place: (1) in the postal ballot box[40], any ballot paper the number on which is the same as the number (or one of the numbers) on the valid postal voting statement (or on the valid declaration of identity, as the case may be)[41]; (2) in the receptacle for rejected votes, any other ballot paper, with the valid statement (or declaration, as the case may be) attached and marked 'provisionally rejected'[42]; (3) in the receptacle for rejected votes, any valid postal voting statement (or valid declaration of identity, as the case may be) marked 'provisionally rejected' where there is no ballot paper or where, in the case of a statement or declaration (as the case may be) on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, he must mark the statement or declaration (as the case may be) to indicate which ballot paper is missing[43]; (4) in the receptacle for postal voting statements, any valid statement not disposed of under head (2) or head (3) above or, as the case may be, in the receptacle for declarations of identity, any valid declaration not disposed of under head (2) or head

(3) above[44]. Heads (1) to (4) above apply also where there is a valid postal voting statement (or valid declaration of identity, as the case may be) but no ballot paper envelope[45] (except in the case of a Welsh Assembly election, when only heads (1), (2) and (4) above apply[46]).

Where, in relation to a parliamentary or local government election, any postal voting statement contained in an envelope is set aside for personal identifier verification[47], the returning officer must satisfy himself that the postal voting statement is duly completed and as part of that process must compare the date of birth and the signature on the postal voting statement against the date of birth and signature contained in the personal identifier record[48] relating to the person to whom the postal ballot paper was addressed[49]. Where the returning officer is not so satisfied, he must mark the statement 'rejected', attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper, and place it in the receptacle for rejected votes (verification procedure)[50]. However, before placing a postal voting statement in the receptacle for rejected votes (verification procedure), the returning officer must show it to the agents and must permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed, and if any of them object to his decision, he must add the words 'rejection objected to'[51]. The returning officer must then examine the number on the postal voting statement against the number on the ballot paper envelope and, where they are the same, he must place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements (verification procedure) and the receptacle for ballot paper envelopes[52]. Where the number on a valid postal voting statement is not the same as the number on the ballot paper envelope or where that envelope has no number on it (or only one number when the postal voting statement has more than one), the returning officer must open the envelope[53]. Where there is a valid postal voting statement but no ballot paper envelope or where the ballot paper envelope has been opened[54], the returning officer must place[55]: (a) in the postal ballot box, any ballot paper the number on which is the same as the number on the valid postal voting statement[56]; (b) in the receptacle for rejected votes (verification procedure), any other ballot paper, with the valid postal voting statement attached and marked 'provisionally rejected'[57]; (c) in the receptacle for rejected votes (verification procedure), any valid postal voting statement marked 'provisionally rejected' where there is no ballot paper[58] or, in the case of a statement on which the number of more than one ballot paper appears, where there is not a sufficient number of ballot papers (and, in such a case, he must mark the statement to indicate which ballot paper is missing)[59]; (d) in the receptacle for postal voting statements (verification procedure), any valid statement not disposed of under head (b) or head (c) above[60].

In carrying out the opening of ballot paper envelopes and associated checking procedures in relation to a parliamentary or local government election[61], the returning officer must keep the ballot papers face downwards and must take proper precautions for preventing any person from seeing the votes made on the ballot papers[62]; and he is not permitted to view the corresponding number list used at the issue of postal ballot papers[63].

1 For the meaning of 'postal voters' ballot box' see para 424 ante.

2 For the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante.

3 As to returning officers for parliamentary elections see para 355 et seq ante; and as to returning officers for local government elections see para 359 et seq ante.

4 For the meaning of 'covering envelope' see para 416 ante.

5 Ie as described in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(2) (see para 425 ante)

6 Ibid reg 84(1) (substituted by SI 2006/2910).

7 As to personal identifier verification see the text and notes 47–60 infra.
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1A) (reg 84(1A), (1B) added by SI 2006/2910).
9 See note 5 supra.
10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1B) (as added: see note 8 supra). Where an envelope opened in accordance with reg 84(1B) (as added) contains a postal voting statement, the returning officer must place a mark in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned: reg 84(7) (reg 84(5)–(9) added by SI 2006/2910). A mark made under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(7) (as added) must be distinguishable from and must not obscure the mark made under reg 72(3) (as amended) (mark placed in the absent voters list or the list of postal proxies to denote that a ballot paper has been issued to the elector or his proxy: see para 414 ante): reg 84(8) (as so added). For the meaning of 'postal voters list' see para 378 note 7 ante; and for the meaning of 'proxy postal voters list' see para 386 note 6 ante.
11 As to the postal voting statement see para 411 ante.
12 For the meaning of 'ballot paper envelope' see para 416 ante.
13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(3) (amended by SI 2006/2910).
14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(4) (amended by SI 2006/2910). As to the provision of a receptacle for rejected votes see para 424 ante.
15 Ie where the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(4) (as amended) (see the text and note 14 supra) does not apply.
16 For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.
17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(5) (as added: see note 10 supra). The text refers to personal identifier verification in accordance with reg 85A (as added) (see the text and notes 47–60 infra).
18 Ie marked in accordance with ibid reg 84(7) (as added) (see note 10 supra).
19 Ibid reg 84(9) (as added: see note 10 supra).
20 As to elections to the National Assembly for Wales see para 220 et seq ante.
21 As to European parliamentary elections see para 224 et seq ante.
22 For the purposes of Welsh Assembly elections, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a Welsh Assembly election see para 18 note 2 ante); and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante. In the case of European parliamentary elections, the appropriate returning officer is the local returning officer: see para 365 et seq ante.
23 Ie as described, in relation to a Welsh Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 18(2) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 44(2) (see para 425 ante).
24 As to the declaration of identity see para 411 ante.
25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(1). At a European parliamentary election, the local returning officer must count and record the number of covering envelopes (including the other type of envelope which is found to contain the relevant election documents) before opening each covering envelope separately: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(1).
26 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(3).
27 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(4).
28 Ie at any parliamentary, local government, Welsh Assembly or European parliamentary election.
29 Ie including an envelope to which notes 5, 23 supra applies.
30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(2).
31 Ie where the postal voting statement was contained in an envelope that has not been set aside for personal identifier verification in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1A) (as added) (see the text and notes 7–8 supra) or reg 84(5) (as added) (see the text and notes 15–17 supra), in which case the procedure in reg 85A (as added) (see the text and notes 47–60 infra) applies: reg 84(2) (as amended: see note 30 supra), reg 85(1) (substituted by SI 2006/2910).

32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(1A) (added by SI 2006/2910). For these purposes, 'valid postal voting statement' means a postal voting statement which, in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85 (as amended) or reg 85A (as added) (see the text and notes 47–60 infra), the returning officer is satisfied has been duly completed: reg 64 (definition added by SI 2006/2910).

33 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(1). A declaration of identity which has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address is referred to as a 'valid declaration of identity': National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 1, 21(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 paras 26(1), 47(1).

34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(2), (3) (reg 85(2) amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(2), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(2), (3).

35 As to the provision of a receptacle for postal voting statements and a receptacle for declarations of identity see para 424 ante.

36 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(4) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(4). As to the provision of a receptacle for ballot paper envelopes see para 424 ante.

37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(5) (reg 85(5)–(7) substituted by SI 2002/1871; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(5) amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(6); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(5).

38 Ie under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(3) (as amended) (see the text and notes 11–13 supra) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 20(3) (see the text and note 26 supra) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 46(3) (see the text and note 26 supra).

39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(6)(b) (as substituted: see note 37 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(6)(b).

40 For the meaning of 'postal ballot box' see para 424 ante.

41 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(a) (as substituted (see note 37 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(7)(a).

42 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(b) (as substituted (see note 37 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(7)(b).

43 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(c) (as substituted (see note 37 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(7)(c).

44 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(d) (as substituted (see note 37 supra); and amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(7)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(7)(d).

45 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(6)(a) (as substituted (see note 37 supra); and amended by SI 2006/2910); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 47(6)(a).

46 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 21(5). In such a case, head (4) in the text applies to any valid declaration not disposed of under head (2) in the text.

47 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85A(1) (reg 85A added by SI 2006/2910). The text refers to personal identifier verification in accordance with either the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1A) (as added) (see the text and notes 7–8 supra) or reg 84(5) (as added) (see the text and notes 15–17 supra). Additional

personal identifier verification may be performed in accordance with reg 85B (as added) on any occasion at which a postal voters' ballot box is opened in accordance with reg 83: see para 427 ante.

48 As to the personal identifier record see para 371 ante.

49 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85A(2) (as added: see note 47 supra). For the meaning of 'postal ballot paper' see para 412 note 3 ante.

50 Ibid reg 85A(3) (as added: see note 47 supra). As to the receptacle for rejected votes (verification procedure) see para 424 ante.

51 Ibid reg 85A(4) (as added: see note 47 supra).

52 Ibid reg 85A(5) (as added: see note 47 supra). As to the receptacle for postal voting statements (verification procedure) and the receptacle for ballot paper envelopes see para 424 ante.

53 Ibid reg 85A(6) (as added: see note 47 supra).

54 Ibid reg 85A(7) (as added: see note 47 supra). The text refers to the circumstances where the ballot paper envelope has been opened under either reg 84(3) (as amended) (see the text and notes 11–13 supra) or reg 85A(6) (as added) (see the text and note 53 supra).

55 Ibid reg 85A(8) (as added: see note 47 supra).

56 Ibid reg 85A(8)(a) (as added: see note 47 supra).

57 Ibid reg 85A(8)(b) (as added: see note 47 supra).

58 Ibid reg 85A(8)(c)(i) (as added: see note 47 supra).

59 Ibid reg 85A(8)(c)(ii) (as added: see note 47 supra).

60 Ibid reg 85A(8)(d) (as added: see note 47 supra).

61 Ie ibid regs 84–88 (as amended) (see also paras 429–430 post).

62 Ibid reg 84(6)(a) (as added: see note 10 supra).

63 Ibid reg 84(6)(b) (as added: see note 10 supra).

429. Opening of ballot paper envelopes. The returning officer at an election[1] must open separately each ballot paper envelope[2] placed in the receptacle for ballot paper envelopes[3]. He must place: (1) in the postal ballot box[4], any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope[5]; (2) in the receptacle for rejected votes[6], any other ballot paper which is marked 'provisionally rejected' with the ballot paper envelope attached[7]; and (3) in the receptacle for rejected ballot paper envelopes[8], any ballot paper envelope which is marked 'provisionally rejected' because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper)[9].

1 As to the returning officers and elections referred to in the text see para 411 notes 1, 14 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

2 For the meaning of 'ballot paper envelope' see para 416 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 22(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 48(1). As to the provision of a receptacle for ballot paper envelopes see para 424 ante.

4 For the meaning of 'postal ballot box' see para 424 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 22(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 48(2)(a).

6 As to the provision of a receptacle for rejected votes see para 424 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 22(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 48(2)(b).

8 As to the provision of a receptacle for rejected ballot paper envelopes see para 424 ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 22(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 48(2)(c).

430. Conclusion of postal ballot procedure. In respect of any election[1], the returning officer[2] must keep two separate lists of rejected postal ballot papers[3]: (1) in the first list, he must record the ballot paper number of any postal ballot paper for which no valid postal voting statement (or for which no declaration of identity, as the case may be)

was received with it[4]; (2) in the second list, he must record the ballot paper number of any postal ballot paper which is entered on a valid postal voting statement (or valid declaration of identity, as the case may be) where that ballot paper is not received with the statement or declaration (as the case may be)[5].

Where the returning officer receives a valid postal voting statement (or valid declaration of identity, as the case may be) without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he may, at any time prior to the close of the poll, check the list kept under head (1) above to see whether the number (or numbers) of a postal ballot paper to which the statement or declaration (as the case may be) relates is entered in that list[6]. Where the returning officer receives a postal ballot paper without the statement or declaration (as the case may be) to which it relates, he may, at any time prior to the close of the poll, check the list kept under head (2) above to see whether the number of that ballot paper is entered in that list[7]. The returning officer must conduct either such check as soon as practicable after the receipt of packets from every polling station in the constituency[8] or electoral area or areas[9] or local counting area[10] in question (as the case may be) following the close of poll[11]. Where the ballot paper number in the list matches that number on a valid postal voting statement (or valid declaration of identity) or, as the case may be, the postal ballot paper, the returning officer must retrieve that statement (or declaration, as the case may be) or paper[12]. As soon as practicable after the completion of this procedure, the returning officer must make up into separate packets the contents of: (a) the receptacle of rejected votes[13]; (b) the receptacle for postal voting statements (at a parliamentary or local government election) or the receptacle for declarations of identity (otherwise)[14]; (c) the receptacle of rejected ballot paper envelopes[15]; (d) the lists of spoilt and lost postal ballot papers[16]; and (e) in relation to parliamentary and local government elections only: (i) the receptacle of rejected votes (verification procedure)[17]; and (ii) the receptacle of postal voting statements (verification procedure)[18], and he must seal up the packets[19]. Any document in those packets marked 'provisionally rejected' must be deemed to be marked 'rejected'[20].

The returning officer must then take the appropriate steps under the provisions governing the receipt of postal ballot papers[21] as though any document earlier marked 'provisionally rejected' had not been so marked and he must amend the document accordingly[22].

1 As to the elections referred to in the text see para 411 notes 1, 14 ante.

2 As to the returning officers referred to in the text see para 411 notes 1, 15 ante; and in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election see also para 412 note 1 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 23(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 49(1). For the meaning of 'postal ballot paper' see para 412 note 3 ante. There will be more than one ballot paper at a Welsh Assembly ordinary election or generally when the proceedings on the issue and receipt of postal ballot papers at more than one election have been taken together (as to which see para 20 ante). As to the issue of postal ballot papers see para 411 et seq ante; and as to the rejection of postal ballot papers see para 428 et seq ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 23(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 49(2). As to the postal voting statement and declaration of identity see para 411 ante.

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(3) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 23(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 49(3).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(1) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(1).
7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(2) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(2).
8 For the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see para 3 note 1 ante; for the meaning of 'constituency' in relation to a parliamentary election see para 9 ante; and for the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 ante.
9 For the meaning of 'electoral area' see para 10 ante.
10 For the meaning of 'local counting area' see para 230 note 11 ante.
11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(3). The text refers to the receipt of packets of ballot papers and other documents which the presiding officer is required to prepare on the close of poll at a polling station: see para 410 ante.
12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(4) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(4).
13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1)(a). As to the provision of a receptacle for rejected votes see para 424 ante.
14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(b) (amended by SI 2006/2910); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1)(b). As to the provision of a receptacle for postal voting statements and a receptacle of declarations of identity see para 424 ante.
15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1)(c). As to the provision of a receptacle for rejected ballot paper envelopes see para 424 ante.
16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1)(d).
17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(e) (added by SI 2006/2910).
18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(f) (added by SI 2006/2910).
19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(1).
20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 25(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 51(2).
21 See para 422 et seq ante.
22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 24(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 50(5).

D. COUNTING OF THE VOTES

(A) Counting at Parliamentary or Certain Local Elections

431. Arrangements for counting the votes at parliamentary and certain local elections. As soon as practicable after the close of the poll, the returning officer at a parliamentary election and at certain local elections[1] must make arrangements for

counting the votes in the presence of the counting agents[2]; and he must give notice to them in writing of the time and place at which he will begin to count the votes[3].

No person other than: (1) the returning officer and his clerks[4]; (2) the candidates and one other person chosen by each of them (or, in the case of a poll consequent on a parish meeting, the candidates and their spouses or civil partners)[5]; (3) the election agents (at elections where election agents are appointed)[6]; (4) the counting agents[7]; and (5) (except in the case of a poll consequent on a parish meeting) persons who are entitled to attend by virtue of any of the provisions which allow Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices[8], may be present at the counting of the votes, unless permitted by the returning officer to attend[9]. A person not entitled to attend at the counting of the votes may not be permitted to do so by the returning officer unless he is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents[10] or thought it impracticable to do so[11]. The returning officer must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance[12].

The returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them[13]. In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted[14].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes[15].

1 Ie at parliamentary and local government elections, except Authority elections (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting taken on the question of appointment to any office see para 361 ante. As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see para 18 ante. As to elections in the City of London see para 30 ante.

2 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 44(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 26(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 44(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 44(1).

4 Representation of the People Act 1983 Sch 1 r 44(2)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(a).

5 Representation of the People Act 1983 Sch 1 r 44(2)(b) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 85(1), (2)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2)(b) (amended by SI 2005/2114); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(b).

6 Representation of the People Act 1983 Sch 1 r 44(2)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(c). A candidate at a local government election for a parish or community council need not have an election agent (see para 238 note 3 ante) and there is no provision at all for election agents to be appointed at a poll consequent on a parish

meeting on a question involving appointment to office. Accordingly, the provision set out in head (3) in the text is omitted in the latter case and may be redundant in the first case. As to the appointment of election agents for parliamentary or local government elections see para 238 et seq ante.

7 Representation of the People Act 1983 Sch 1 r 44(2)(d); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(d).

8 Representation of the People Act 1983 Sch 1 r 44(2)(e) (added by the Electoral Administration Act 2006 Sch 1 paras 69, 85(1), (3)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2)(e); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2)(e). The reference in the text is to persons who are entitled to attend by virtue of any of the provisions of the Political Parties, Elections and Referendums Act 2000 ss 6A–6D (as added) (see para 48 ante).

9 Representation of the People Act 1983 Sch 1 r 44(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(2).

10 At parish or community council elections, where there is no requirement for election agents to be appointed (see note 6 supra), the reference in the text to election agents should be read as a reference to the candidates: see the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(3). However, at a poll consequent on a parish meeting on a question involving appointment to office, where there is no provision at all for election agents to be appointed (see note 6 supra), the returning officer is bound neither to consult anyone else nor to consider practicability: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(3).

11 Representation of the People Act 1983 Sch 1 r 44(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(3).

12 See paras 390 ante, 742–744 post.

13 Representation of the People Act 1983 Sch 1 r 44(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(4).

14 Representation of the People Act 1983 Sch 1 r 44(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 44(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 44(5).

15 As to polls at elections or referendums which are taken together see para 16 et seq ante.

432. Counting the ballot papers and recording the number counted at parliamentary and certain local elections. The returning officer at a parliamentary election and at certain local elections[1] must: (1) in the presence of the counting agents[2] open each ballot box and count and record the number of ballot papers in it[3]; and (2) count such of the postal ballot papers as have been duly returned and record the number counted[4]. A postal ballot paper must not be taken to be duly returned unless: (a) it is returned in the prescribed manner[5] and reaches the returning officer or a polling station in the constituency or electoral area in question (as the case may be) before the close of the poll[6]; (b) the postal voting statement duly signed[7] is also returned in the prescribed manner[8] and reaches him or such a polling station before that time[9]; (c) the postal voting statement also states the date of birth of the elector or proxy, as the case may be[10]; and (d) in a case where steps for verifying the date of birth and signature of an elector or proxy have been prescribed[11], the returning officer (having taken such steps) has verified the date of birth and signature of the elector or proxy, as the case may be[12].

The returning officer must not count the votes given on any ballot papers until, in the case of postal ballot papers, they have been mixed with the ballot papers from at least one other ballot box[13], and, in the case of ballot papers from a ballot box, until they have been mixed with the ballot papers from at least one other ballot box[14]. The returning officer must not count any tendered ballot paper[15]. While counting and recording the

number of ballot papers and counting the votes, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers and other unique identifying marks (where these apply) printed on the back of the papers[16].

The returning officer must, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the counting agents agree[17], exclude the hours between seven in the evening and nine on the following morning[18]. During the time so excluded, the returning officer must: (i) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals[19]; and (ii) otherwise take proper precautions for the security of the papers and documents[20].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes[21].

1 Ie at parliamentary and local government elections, except Authority elections (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting taken on the question of appointment to any office see para 361 ante. As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see para 18 ante. As to elections in the City of London see para 30 ante.

2 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 45(1)(a) (Sch 1 r 45(1) substituted by the Representation of the People Act 1985 s 24, Sch 4 para 82); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 27(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 45(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 45(1)(a).

4 Representation of the People Act 1983 Sch 1 r 45(1)(c) (as substituted: see note 3 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(1)(c). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office, and accordingly the provisions set out in heads (2) and (a)–(d) in the text do not apply in that case. As to the returning officer's duty to record the return of a postal vote in respect of a person who is entered on the postal voters list, or a proxy postal vote in respect of a proxy who is entered on the proxy postal voters list, see para 425 ante.

5 For the purposes of the Representation of the People Act 1983, 'prescribed' means prescribed by regulations: s 202(1). Accordingly, for the purposes of a parliamentary election, the manner in which a postal ballot paper or postal voting statement may be returned to a polling station is by hand (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(1) (amended by SI 2006/2910)); and the manner in which such a paper or statement may be returned to the returning officer is by post or by hand (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(2) (amended by SI 2006/2910)). As to the making of regulations under the Representation of the People Act 1983 generally see para 24 note 16 ante.

For the purposes of a local government election for a principal area, parish or community council, the manner in which any postal ballot paper or postal voting statement may be returned to the returning officer is by hand or by post and to a polling station it is by hand: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(4). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra.

6 Representation of the People Act 1983 Sch 1 r 45(1B)(a) (Sch 1 r 45(1B) added by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 10(1), (4)(a)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3)(a). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra.

7 As to the postal voting statement see para 411 ante.

8 See note 5 supra.

9 Representation of the People Act 1983 Sch 1 r 45(1B)(b) (as added (see note 6 supra); and amended by the Electoral Administration Act 2006 ss 47, 74(2), Sch 1 paras 69, 73(1), (2), (3)(a), Sch 2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3)(b). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra. As to the means by which a postal voter may validly make the returns mentioned in the text see further para 425 ante.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 73 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

10 Representation of the People Act 1983 Sch 1 r 45(1B)(c) (Sch 1 r 45(1B)(c), (d) added by the Electoral Administration Act 2006 Sch 1 paras 69, 73(1), (3)(b)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3)(c). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra.

11 Ie by regulations made under the Representation of the People Act 1983. For the purposes of the Representation of the People Act 1983, 'prescribed' means prescribed by regulations: s 202(1). See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 85, 85A (as added); and para 428 ante.

12 Representation of the People Act 1983 Sch 1 r 45(1B)(d) (as added: see note 10 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(3)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(3)(d). As to a poll consequent on a parish meeting on a question involving appointment to office see note 4 supra.

13 Representation of the People Act 1983 Sch 1 r 45(1A)(a) (Sch 1 r 45(1A) added by the Representation of the People Act 1985 Sch 4 para 82); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(2)(a).

14 Representation of the People Act 1983 Sch 1 r 45(1A)(b) (as added see note 13 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(2)(b). The procedure set out in the text does not apply at a poll consequent on a parish meeting on a question involving appointment to office. However, where two such polls have been taken together, the returning officer must separate the ballot papers relating to each poll and count and record the number of ballot papers relating to each poll (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(1)(b)), and he must then mix together the whole of the ballot papers relating to the poll or each poll, as the case may be, which were contained in the ballot boxes (Schedule r 27(1)(c)).

15 Representation of the People Act 1983 Sch 1 r 45(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(5). As to tendered ballot papers see para 408 ante; and as to adding votes on a scrutiny see para 842 post.

16 Representation of the People Act 1983 Sch 1 r 45(4) (amended by the Electoral Administration Act 2006 Sch 1 paras 69, 91); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(6). At a poll consequent on a parish meeting on a question involving appointment to office, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers while separating the ballot papers (i e rather than while counting and recording the number of ballot papers and counting the votes): see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(3). As to the number and other security marks which must be printed on the back of every ballot paper see para 392 ante.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 91 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

17 At a poll consequent on a parish meeting on a question involving appointment to office, the exception applies only in so far as the returning officer thinks necessary: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(5).

18 Representation of the People Act 1983 Sch 1 r 45(6); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(8).

19 Representation of the People Act 1983 Sch 1 r 45(7)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(6)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(9)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(9)(a).

20 Representation of the People Act 1983 Sch 1 r 45(7)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(6)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(9)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(9)(b).

21 As to polls at elections or referendums which are taken together see para 16 et seq ante.

433. Verification of the ballot paper account at parliamentary and certain local elections. In the presence of the election agents (or, at elections where election agents are not appointed, the counting agents)[1], the returning officer at a parliamentary election and at certain local elections[2] must verify each ballot paper account[3]. He does this by comparing each ballot paper account with the number of ballot papers recorded by him[4], and the unused and spoilt ballot papers[5] in his possession and the tendered votes list[6] (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)[7].

He must draw up a statement as to the result of the verification, which any election agent (or, at elections where election agents are not appointed, any counting agent[8]) may copy[9].

1 A candidate at a local government election for a parish or community council need not have an election agent (see para 238 note 3 ante) and there is no provision at all for election agents to be appointed at a poll consequent on a parish meeting on a question involving appointment to office. As to the appointment of election agents at parliamentary or local government elections see para 238 et seq ante; and as to the appointment of counting agents by a candidate see para 399 ante.

2 Ie at parliamentary and local government elections, except Authority elections (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting taken on the question of appointment to any office see para 361 ante. As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see para 18 ante. As to elections in the City of London see para 30 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 45(1)(b) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 82); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 27(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 45(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 45(1)(b). As to the ballot paper account see para 410 ante.

4 As to the returning officer's duty to record the number of ballot papers counted and verify the account see para 432 ante.

5 As to spoilt ballot papers see para 409 ante.

6 As to the tendered votes list see para 408 ante.

7 Representation of the People Act 1983 Sch 1 r 45(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(7).

8 See note 1 supra.

9 Representation of the People Act 1983 Sch 1 r 45(5); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 45(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 45(7).

434. Ballot papers rejected for want of official mark at parliamentary and certain local elections. Any ballot paper which does not bear the official mark[1] is void and must not be counted[2].

However, where not all of the holes which should have been made by the official mark perforate the ballot paper, but the marks which do appear indicate the intention to apply the official mark, the ballot paper should not be rejected[3].

1 Ie in relation to parliamentary and local government elections, except Authority elections (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. As to the official mark in use at each election see para 392 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 47(1)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(1)(a). As to the treatment of rejected votes see para 438 et seq post; and as to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post.

3 *Re South Newington (Kingston-upon-Hull) Municipal Election Petition, Lewis v Shepperdson* [1948] 2 All ER 503 at 507 per Birkett J (applying the reasoning in *Gloucester County, Cirencester Division, Case* (1893) 4 O'M & H 194).

435. Ballot papers rejected for voting for too many candidates, etc at parliamentary and certain local elections. Any ballot paper on which votes are given for more than one candidate[1] (or, in the case of a local government election or a poll consequent on a parish or community meeting, for more candidates than the voter is entitled to vote for[2]) is void and must not be counted[3].

1 Ie at parliamentary and local government elections, except Authority elections (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. For the meaning of 'candidate' generally see para 237 ante.

2 As to the number of votes permitted at a local government election see para 389 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 47(1)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(1)(b). As to the treatment of rejected votes see para 438 et seq post. As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post. Whether a mark on a ballot paper amounts to a vote for a particular candidate is a matter of fact: see para 854 note 4 post.

436. Ballot papers rejected for marks of identification at parliamentary and certain local elections. Any ballot paper[1] on which anything is written or marked by which the voter can be identified, except the printed number and other unique identifying mark on the back, is void and must not be counted[2]. The writing or mark must be such that the voter can be, and not merely might be, identified[3]. Ballot papers have been rejected because they were marked upon their faces by the presiding officer with the number on the register of the voter[4].

A ballot paper on which the vote is marked elsewhere than in the proper place, otherwise than by means of a cross[5], or by more than one mark, must not for such reason be deemed to be void[6] if an intention that the vote is for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified by it[7]. The mere fact that it is in handwriting does not of itself show the voter can be identified[8].

The returning officer is not obliged to hold an inquiry to enable him to decide whether the voter can be identified by the mark[9] but should receive evidence which is offered to him[10].

1 Ie at a parliamentary or local government election, except an Authority election (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the

question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 47(1)(c) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 92); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(1)(c). As to the number and other security marks which must be printed on the back of every ballot paper see para 392 ante. As to the treatment of rejected votes see para 438 et seq post; and as to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 92 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

3 *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194; *Ruffle v Rogers* [1982] QB 1220 at 1231, [1982] 3 All ER 157 at 161, CA, per Eveleigh LJ; and see Lord Denning MR at 1230 and 160. A voter can presumably be identified by his initials, at least in relatively small electoral areas: see the decision in *Re South Newington (Kingston-upon-Hull) Municipal Election Petition, Lewis v Shepperdson* [1948] 2 All ER 503 at 507 per Birkett J. A ballot paper marked only with a cross on the back of the paper has been rejected for endangering the secrecy of the vote, even though it was contended that the voter had misinterpreted the instruction to mark the paper opposite the candidate's name (i e by positioning his mark purposely over the blind printed impression of the candidate's name which was evident to the rear face of the paper): *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178.

4 *Woodward v Sarsons* (1875) LR 10 CP 733. In *Clare, Eastern Division, Case* (1892) 4 O'M & H 162, the returning officer had rejected ballot papers from which the counterfoil had not been detached; but quaere whether the provision set out in the text supports rejection on grounds that the identification of the voter is on the counterfoil (rather than the ballot paper).

5 For example, where the name of the candidate is written in handwriting in place of the cross: see *Ruffle v Rogers* [1982] QB 1220, [1982] 3 All ER 157, CA. As to further examples of misplaced marks see para 437 post.

6 Ie in the case of a local government election for a principal area, parish or community council, and at polls consequent on a parish meeting on a question of appointment to office, either wholly or as respects that vote: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(3); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(3).

7 Representation of the People Act 1983 Sch 1 r 47(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(3). These provisions derive from one first enacted in the Representation of the People Act 1948 (repealed) and have the effect of overruling some of the earlier case law. Whether a mark on a ballot paper amounts to a vote for a particular candidate is a matter of fact: see para 854 note 4 post.

8 *Ruffle v Rogers* [1982] QB 1220 at 1231, [1982] 3 All ER 157 at 161, CA, per Eveleigh LJ; and see per Lord Denning MR at 1229 and 160.

9 *Wigtown District Burgh Case* (1874) 2 O'M & H 215 at 225.

10 This is implicit from the closing words of the provisions quoted in the text to note 7 supra ('it is not shown that [the voter] can be identified by it'). See also *Woodward v Sarsons* (1875) LR 10 CP 733 at 749 per Lord Coleridge CJ: 'If there were evidence of an arrangement that the voter would place two marks, so as to indicate that it was he, that voter, who had used that ballot paper, then, by reason of such evidence, such double mark would be a mark by which the voter could be identified, and then the paper, upon such proof being made, should be rejected'.

437. Ballot papers rejected for uncertainty at parliamentary and certain local elections. A ballot paper which is unmarked or void for uncertainty is void[1] and must not be counted[2]; but where the voter is entitled to vote for more than one candidate at a local government election for a principal area, parish or community council, or at a poll consequent on a parish meeting on a question of appointment to office, a ballot paper is not to be deemed to be void for uncertainty in respect of any vote in relation to which no uncertainty arises and that vote is to be counted[3]. A ballot paper on which a vote is marked elsewhere than in the proper place[4], or otherwise than

by means of a cross[5] or by more than one mark is not by reason of it to be deemed to be void[6] if an intention that the vote is for one or other of the candidates clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified by it[7]. The following examples illustrate this rule.

A ballot paper may be well marked although the mark does not discolour the paper if from any circumstances the court can infer that the marks were intentionally made by the voter[8]. Where, at an election at which the voter may vote for one candidate only, a ballot paper carries a cross opposite the name of one candidate and a smudge which appears to have been caused by rubbing out a mark opposite the name of another candidate, this has been held to be a good vote for the former candidate[9].

A ballot paper may be well marked for one candidate although a great portion of the cross is opposite the name of another candidate if the point of intersection of the crossing lines is in the space appropriate to the former[10]. A ballot paper may be well marked also where the point of intersection of the cross is outside any of the compartments reserved to indicate a vote for a candidate but where the trailing ends of the cross extend into one only of those compartments[11].

A ballot paper may be well marked even though it carries more than the minimum number of marks necessary to indicate a vote. For example, where there was a cross opposite the name of a candidate and other crosses which had the effect of obscuring that candidate's name altogether, this was held to be a good vote for that candidate[12]; but where the only mark upon the paper was a cross immediately upon the name of one of the candidates in such a way as to make it possible that the voter intended to strike that name out, the vote was disallowed[13]. At an election at which the voter could vote for one candidate only, where the names of two candidates had been struck out and no mark had been placed against the name of the remaining candidate, the ballot paper was held to be a valid vote for the last-mentioned candidate[14]. In an election where there were six candidates, and two were to be elected, the voter had placed a cross by the names of four candidates, and a tick by two; the paper was held to be valid, with the ticks being counted[15]. However, where a voter who was entitled to vote for five candidates had placed a distinct cross against each of five names and an encircled cross against a sixth name, the ballot paper was held to be invalid for showing six votes instead of the permitted five[16].

Tearing the ballot paper is not of itself a fatal defect[17] but a ballot paper of which half had been torn away so that only one candidate's name remained has been held to be bad although there was a cross opposite that candidate's name[18].

1 Ie at a parliamentary or local government election, except an Authority election (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante.

A vote is bad for uncertainty where it is upon the face of the ballot paper doubtful whether the voter intended to vote for one candidate or the other: *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194 at 197. As to what may constitute an unmarked ballot paper see further the text and notes 8–9 infra.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 47(1)(d); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(1)(d). As to the treatment of rejected votes see para 438 et seq post; and as to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(2).

4 See *Pontardawe Rural Council Election Petition* [1907] 2 KB 313, DC. As to the layout of the ballot paper see para 391 ante.

5 See *Ruffle v Rogers* [1982] QB 1220, [1982] 3 All ER 157, CA (vote marked by candidate's name being written); *West Bromwich Case* (1911) 6 O'M & H 256 at 257; *Phillips v Goff* (1886) 17 QBD 805, DC; *York County East Riding, Buckrose Division, Case* (1886) 4 O'M & H 110.

6 Ie, in the case of local government elections and at polls consequent on a parish meeting on a question of appointment to office, either wholly or as respects that vote: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(3).

7 Representation of the People Act 1983 Sch 1 r 47(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(3). These provisions derive from one first enacted in the Representation of the People Act 1948 (repealed) and have the effect of overruling some of the earlier case law.

8 *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178; *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194. The mark need not appear to have been made with a pencil; a scratch with a finger nail is sufficient: *Berwick Case, McLaren v Home* supra; *Gloucester County, Cirencester Division Case* supra. A ballot paper marked with a dot caused by the breaking of the pencil point has been held good: *Cooper v Ogden, Re Oldham Case* (1908) 72 JP 115. Whether a mark on a ballot paper amounts to a vote for a particular candidate is a matter of fact: see para 854 note 4 post.

9 *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194. Where a paper contained an ink mark of uncertain character at its bottom below a candidate's name the paper was disallowed for uncertainty: *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178.

10 *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178; *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194.

11 *Cooper v Ogden, Re Oldham Case* (1908) 72 JP 115. A cross or mark that is completely outside any of the compartments on the ballot paper is not a valid mark: *Berwick Case, McLaren v Home* (1880) 44 LT 289, 3 O'M & H 178; *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37; *York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110.

12 *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194 (the crosses other than the cross appearing opposite the name of the candidate were assumed to be added for emphasis).

13 *York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 112. In *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC, regarding an election where three candidates stood for only one office, a ballot paper on which the only mark was a cross appearing over the name of one candidate was held to be a good vote for that candidate.

14 *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC.

15 *Three Rivers District Council Election Petition* (26 July 1991, unreported), DC. In *Cooper v Ogden, Re Oldham Case* (1908) 72 JP 115, ballot papers which contained a cross in one candidate's compartment as well as another type of mark in the other candidate's compartment were held to be good votes for the candidate against whose name the cross appeared, on the grounds that a cross was the valid mark used to indicate a vote and the other marks were thought to indicate merely that the voter had not forgotten the other candidate.

16 *Pontardawe Rural Council Election Petition* [1907] 2 KB 313, DC.

17 *Woodward v Sarsons* (1875) LR 10 CP 733 (ballot paper which had been torn through its centre longitudinally was counted and the vote on it held to be valid).

18 *West Bromwich Case* (1911) 6 O'M & H 256 at 257.

438. Treatment of rejected ballot papers at parliamentary and certain local elections. The returning officer at an election[1] must endorse the word 'rejected' on any ballot paper which is not to be counted[2] and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent[3] to his decision[4]. The returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark[5]; (2) voting for more than one candidate or, as the case may be, for more candidates than the voter is entitled to[6]; (3) writing or mark by which a voter could be identified[7]; (4) unmarked or void for uncertainty[8]. In the case of a local government election for a principal area, parish or community council, or at a poll consequent on a parish meeting on a question of appointment to office, such a statement must record also the number of ballot papers rejected in part and show them under the several heads (1) to (4) mentioned above[9].

1 Ie at a parliamentary or local government election, except an Authority election (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. As to elections in the City of London see para 30 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 47(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(4)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 47(4)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 47(4)(a). In the case of a local government election for a principal area, parish or community council, or at a poll consequent on a parish meeting on a question of appointment to office, where a ballot paper is void in part but on which any vote is counted (see para 437 ante), the returning officer must endorse the words 'rejected in part' on the ballot paper and indicate which vote or votes have been counted: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(4)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(4)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(4)(b).

3 As to the discharge of this function by the candidate or (where there is such an agent) his election agent see para 399 ante.

4 Representation of the People Act 1983 Sch 1 r 47(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(4).

5 Representation of the People Act 1983 Sch 1 r 47(4)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5)(a).

6 Representation of the People Act 1983 Sch 1 r 47(4)(b); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5)(b).

7 Representation of the People Act 1983 Sch 1 r 47(4)(c); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5)(c).

8 Representation of the People Act 1983 Sch 1 r 47(4)(d); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5)(d).

9 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 47(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 47(5).

439. Conclusiveness of returning officer's decision as to ballot papers at parliamentary and certain local elections. The decision of the returning officer[1] on any question arising in respect of a ballot paper is final, but is subject to review on an election petition[2].

1 Ie at a parliamentary or local government election, except an Authority election (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. As to elections in the City of London see para 30 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 48; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 30; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 48; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 48. As to election petitions at parliamentary elections see para 759 et seq post; and as to election petitions at local government elections see para 760 et seq post.

440. Recount at parliamentary and certain local elections. A candidate[1] or (at elections where election agents are appointed) his election agent[2], may, if present when the counting or any recount of the votes is completed[3], require the returning officer at the election[4] to have the votes recounted or again recounted, but the returning officer may refuse to do so if in his opinion the request is unreasonable[5]. No step may be taken on the completion of the counting or any recount of votes until the candidates (and, at elections where election agents are appointed, the election agents[6]) present at its completion have been given reasonable opportunity to exercise the right of demanding a recount[7].

1 Ie at a parliamentary or local government election, except an Authority election (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante. For the meaning of 'candidate' generally see para 237 ante.

2 A candidate at a local government election for a parish or community council need not have an election agent (see para 238 note 3 ante) and there is no provision for election agents to be appointed at a poll consequent on a parish meeting on a question involving appointment to office. Accordingly, in relation to such an election and such a poll, a candidate may exercise the right set out in the text: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 28; and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 46. As to the appointment of election agents at parliamentary and local government elections see para 238 et seq ante.

3 As to the counting of votes at a parliamentary or local government election (except a London Authority election) see para 432 ante.

4 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. As to the functions of returning officers where the poll at an election is taken together with the poll at another election or referendum see para 18 ante.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 46(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 28(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 46(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 46(1).

6 See note 2 supra.

7 Representation of the People Act 1983 Sch 1 r 46(2); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 28(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 46(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 46(2).

Non-observance of this rule does not necessarily invalidate the election: *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC (a case in which a candidate's request for a recount was not heard by the returning officer). As to the procedure to be followed when, the result of an election having been declared by the returning officer, a parcel of ballot papers is discovered uncounted see para 854 note 3 post.

441. Casting of lots in case of equality of votes at parliamentary and certain local elections. Where, after the counting of the votes (including any recount) is completed[1], an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote[2].

1 Ie at a parliamentary or local government election, except an Authority election (as to the count at which see para 442 et seq post), but including a poll consequent on a parish meeting taken on the question of appointment to any office. For the meaning of 'parliamentary election' see para 9 ante; and for the meanings of 'Authority election' and 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante. As to the counting of votes at a parliamentary or local government election (except a London Authority election) see para 432 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 49; Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 31; Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 49; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 49.

For a case where, apart from a disputed vote, the votes were equally divided between two candidates and the returning officer spun a coin to decide between them, but the disputed vote was on an election petition held good see *Fryer v Harris* (1955) Times, 30 July. See also *Lever v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC (whether incorrectly marked ballot papers void; equality of votes cast and decision taken by lot); *Ruffle v Rogers* [1982] QB 1220, [1982] 3 All ER 157, CA (where the inclusion of a wrongly rejected vote would have resulted in an equality of votes which is a 'result' for the purposes of the provision re-enacted as the Representation of the People Act 1983 s 48(1) (as to which see para 359 ante)).

(B) Counting at Elections of London Assembly Members

442. Arrangements for counting the votes at elections of London Assembly members. As soon as practicable after the close of the poll, the constituency returning officer at a London Authority election[1] for the return of constituency or London members of the London Assembly[2] must make arrangements for counting the votes in the presence of the counting agents appointed for the purposes of the election in question[3] and (in the case of a London members election) for the separation and verification of the ballot papers[4]. The constituency returning officer must give to the counting agents notice in writing of the time and place at which he will begin to count the votes[5].

No person other than: (1) the constituency returning officer and his clerks[6]; (2) the candidates and their spouses or civil partners[7]; (3) the election agents[8]; (4) the counting agents[9]; and (5) any person authorised by the Electoral Commission to attend at the counting of votes as a representative of the Electoral Commission[10], may be present at the counting of votes, unless permitted by the constituency returning officer to attend[11]. A person not entitled to attend at the counting of votes may not be permitted to do so by the constituency returning officer unless he is satisfied that the efficient counting of the votes (and, in the case of a London members election, the efficient separation and verification of the ballot papers) will not be impeded[12] and he has either consulted the candidates or thought it impracticable to do so[13].

The constituency returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them[14]. In particular, where the votes are counted by sorting the ballot papers according to the candidate (or, in the case of a London members election, the registered party, as the case may be[15]) for whom the vote is given and then counting the number of ballot papers for each candidate (or party, as the case may be), the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted[16].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes[17].

1 For the meaning in this context of 'constituency returning officer' see para 218 note 8 ante. For the meaning of 'Authority election' see para 10 ante.
2 As to elections for the return of constituency or London members of the London Assembly see para 206 et seq ante. As to elections in the City of London see para 30 ante.
3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 39(1), Sch 2 r 40(1). In the case of a London members election, the arrangements made are for the counting of the London votes cast in the Assembly constituency (known as the 'local count'): Sch 2 r 40(1)(b). For the meaning of 'Assembly constituency' for the purposes of London Authority elections see para 10 note 6 ante. As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.
4 Ibid Sch 2 r 40(1)(a).
5 Ibid Sch 1 r 39(1), Sch 2 r 40(1).
6 Ibid Sch 1 r 39(2)(a), Sch 2 r 40(2)(a).
7 Ibid Sch 1 r 39(2)(b), Sch 2 r 40(2)(b) (both amended by SI 2005/2114).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 39(2)(c), Sch 2 r 40(2)(c). As to the appointment of election agents at Authority elections see para 238 et seq ante.
9 Ibid Sch 1 r 39(2)(d), Sch 2 r 40(2)(d).
10 Ibid Sch 1 r 39(2)(e), Sch 2 r 40(2)(e) (both added by SI 2004/227). As to the Electoral Commission see para 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see para 48 ante.
11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 39(2), Sch 2 r 40(2).
12 Ibid Sch 1 r 39(3)(a), Sch 2 r 40(3)(a).
13 Ibid Sch 1 r 39(3)(b), Sch 2 r 40(3)(b).
14 Ibid Sch 1 r 39(4), Sch 2 r 40(4).
15 As to individual candidates and the submission of lists of candidates to be London members of the London Assembly see para 233 ante. For the meaning of 'registered political party' in this context see para 233 note 16 ante.
16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 39(5), Sch 2 r 40(5).
17 As to polls at elections or referendums which are taken together see para 16 et seq ante.

443. Counting the ballot papers and recording the number counted at elections of London Assembly members. The constituency returning officer at a London Authority ordinary election[1] for the return of constituency or London members of the London Assembly[2] must: (1) in the presence of the counting agents appointed for the purposes of the constituency members election, the London members election and the London mayoral election[3], open each ballot box and record separately the number of ballot papers used in each election[4]; (2) in the presence of the election agents appointed for the purposes of those elections[5], verify each ballot paper account[6]; (3) count such of the postal ballot papers as have been duly returned and record separately the number counted at each election[7]; and (4) separate the ballot papers relating to the constituency members election or the London members election (as the case may be) from those relating to the other London Authority members election and the London mayoral election[8]. A postal ballot paper must not be taken to be duly returned unless it is returned and the declaration of identity[9], duly signed and authenticated, is also returned, before the close of the poll, by hand to a polling station in the London Assembly constituency[10] or by hand or by post to the constituency returning officer[11]. In the case of a constituency members election, the constituency returning officer must not count the votes given on any ballot papers until, in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box[12] and, in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box[13]. In the case of a London members election, as soon as completing the proceedings under heads (1) to (4) above, the constituency returning officer must mix together all of the ballot papers used in the Assembly constituency at the London members election and count the votes given on them[14].

While counting and recording the number of ballot papers and counting the votes, the constituency returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers[15]. He must not count any tendered ballot paper[16].

The constituency returning officer must so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the counting agents[17] agree, exclude the hours between five in the afternoon and ten on the following morning[18]. For the purposes of this exception, the agreement of a candidate or his election agent is as effective as the agreement of his counting agents[19]. During the time so excluded, the constituency returning officer must: (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals[20]; and (b) otherwise take proper precautions for the security of the papers and documents[21].

The constituency returning officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers[22] in his possession and the tendered votes list[23] (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)[24]. He must draw up a statement as to the result of the verification, which any election agent may copy[25].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes[26].

1 For the meaning in this context of 'constituency returning officer' see para 218 note 8 ante. For the meaning of 'Authority election' see para 10 ante. As to London Authority ordinary elections see para 206 ante.

2 As to elections for the return of constituency or London members of the London Assembly see para 206 et seq ante. As to elections in the City of London see para 30 ante.

3 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante. As to the counting of votes at a London mayoral election see para 451 post.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 40(1)(a), Sch 2 r 41(1)(a). At an ordinary Authority election where the Greater London returning officer has decided that the ballot papers are to be placed in separate ballot boxes according to whether the votes given on them are cast in the election under the constituency members election rules, the London members election rules or the mayoral election rules (see r 3, Sch 4 r 6(1); and para 396 note 4 ante), the ballot boxes from each polling station must be opened together, and the ballot papers counted together: Sch 4 r 12(1). At an Authority election which is not an ordinary election, the constituency returning officer must, in the presence of the counting agents, open each ballot box and count and record the number of ballot papers in it: Sch 1 r 40(2)(a). For the meaning of 'Greater London returning officer' see para 218 note 7 ante. As to the constituency members election rules, the London members election rules and the mayoral election rules see para 388 ante.

5 As to the appointment of election agents at Authority elections see para 238 et seq ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(1)(b), Sch 2 r 41(1)(b). At an Authority election which is not an ordinary election, the constituency returning officer must, in the presence of the election agents, verify each ballot paper account: Sch 1 r 40(2)(b). As to verification of the ballot paper account at London mayoral elections see para 452 post. As to the ballot paper account see para 410 ante.

7 Ibid Sch 1 r 40(1)(c), Sch 2 r 41(1)(c). At an Authority election which is not an ordinary election, the constituency returning officer must count such of the postal ballot papers as have been duly returned and record the number counted: Sch 1 r 40(2)(c).

8 Ibid Sch 1 r 40(1)(d), Sch 2 r 41(1)(d). At an Authority election which is not an ordinary election, the operation set out in head (3) in the text is not required.

9 As to the declaration of identity see para 411 ante.

10 For the meaning of 'Assembly constituency' for the purposes of London Authority elections see para 10 note 6 ante.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(4), Sch 2 r 41(3) (both substituted by SI 2004/227). As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see para 425 ante.

12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(3)(a).

13 Ibid Sch 1 r 40(3)(b).

14 Ibid Sch 2 r 41(2).

15 Ibid Sch 1 r 40(6), Sch 2 r 41(5). As to the number which must be printed on the back of every ballot paper see para 392 ante.

16 Ibid Sch 1 r 40(5), Sch 2 r 41(4). As to tendered ballot papers see para 408 ante. As to adding votes on a scrutiny see para 842 post.

17 As to the discharge of this function by the candidate or his election agent see para 399 ante.

18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(8), Sch 2 r 41(7) (amended by SI 2000/1040).

19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(8), Sch 2 r 41(7).

20 Ibid Sch 1 r 40(9)(a), Sch 2 r 41(8)(a).

21 Ibid Sch 1 r 40(9)(b), Sch 2 r 41(8)(b).

22 As to spoilt ballot papers see para 409 ante.

23 As to the tendered votes list see para 408 ante.

24 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 40(7), Sch 2 r 41(6).

25 Ibid Sch 1 r 40(7), Sch 2 r 41(6).

26 As to polls at elections or referendums which are taken together see para 16 et seq ante.

444. Ballot papers rejected at elections of London Assembly members. At a London Authority election[1] for the return of constituency or London members of the London Assembly[2], any ballot paper which does not bear the official mark[3], or on which votes are given for more than one candidate[4], or on which anything is written or marked by which the voter can be identified except the printed number on the back[5], or which is unmarked or void for uncertainty[6], is void and not counted[7]. However, a ballot paper on which a vote is marked elsewhere than in the proper place[8], or otherwise than by means of a cross[9], or by more than one mark[10], is not for such reason void if an intention that a vote is for one only of the candidates clearly appears[11] and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it[12].

The constituency returning officer[13] must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent[14] to his decision[15]. The constituency returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark[16]; (2) voting for more than one candidate[17]; (3) writing or mark by which the voter could be identified[18]; (4) unmarked or void for uncertainty[19].

1 For the meaning of 'Authority election' see para 10 ante.

2 As to elections for the return of constituency or London members of the London Assembly see para 206 et seq ante. As to elections in the City of London see para 30 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 41(1)(aa), Sch 2 r 42(1)(aa) (both added by SI 2004/227). As to the official mark see para 392 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 41(1)(a), Sch 2 r 42(1)(a). In the case of a London members election, the text refers to votes given for more than one party or individual candidate: see Sch 2 r 42(1)(a). As to individual candidates to be London members of the London Assembly see para 233 ante. For the meaning of 'registered political party' in this context see para 233 note 16 ante.

5 Ibid Sch 1 r 41(1)(b), Sch 2 r 42(1)(b). As to the number which must be printed on the back of every ballot paper see para 392 ante.

6 Ibid Sch 1 r 41(1)(c), Sch 2 r 42(1)(c).

7 Ibid Sch 1 r 41(1), Sch 2 r 42(1). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post.

8 Ibid Sch 1 r 41(2)(a), Sch 2 r 42(2)(a).

9 Ibid Sch 1 r 41(2)(b), Sch 2 r 42(2)(b).

10 Ibid Sch 1 r 41(2)(c), Sch 2 r 42(2)(c).

11 Ibid Sch 1 r 41(2), Sch 2 r 42(2). In the case of a London members election, the text refers to one only of the party or individual candidates: see Sch 2 r 42(2).

12 Ibid Sch 1 r 41(2), Sch 2 r 42(2).

13 For the meaning in this context of 'constituency returning officer' see para 218 note 8 ante.

14 As to the appointment of counting agents by a candidate, as to the effect of their non-attendance, and as to the discharge of this function by the candidate or (where there is such an agent) his election agent, see para 399 ante.

15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 41(3), Sch 2 r 42(3).

16 Ibid Sch 1 r 41(4)(aa), Sch 2 r 42(4)(aa) (both added by SI 2004/227). As to the official mark see para 392 ante.

17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 41(4)(a), Sch 2 r 42(4)(a). In the case of a London members election, the text refers to voting for more than one party or individual candidate: see Sch 2 r 42(4)(a).

18 Ibid Sch 1 r 41(4)(b), Sch 2 r 42(4)(b).

19 Ibid Sch 1 r 41(4)(c), Sch 2 r 42(4)(c).

445. Conclusiveness of returning officer's decision as to ballot papers at elections of London Assembly members. The decision of the constituency returning officer at a London Authority election[1] for the return of constituency or London members of the London Assembly[2] on any question arising in respect of a ballot paper is final, but is subject to review on an election petition[3].

1 For the meaning in this context of 'constituency returning officer' see para 218 note 8 ante. For the meaning of 'Authority election' see para 10 ante.
2 As to elections for the return of constituency or London members of the London Assembly see para 206 et seq ante. As to elections in the City of London see para 30 ante.
3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (2), Sch 1 r 42, Sch 2 r 43. As to the rejection of ballot papers at elections of London Assembly members see para 444 ante; and as to petitions questioning a local government election see para 760 et seq post.

446. Recount at elections of London Assembly members. A candidate at a London Authority election[1] for the return of constituency or London members of the London Assembly[2] or his election agent[3] (or, in the case of a London members election, any counting agent duly authorised[4]) may, if present when the counting or any recount of the votes is completed[5], require the constituency returning officer[6] to have the votes recounted or again recounted[7]. However, the constituency returning officer may refuse to do so if in his opinion the request is unreasonable[8].

No step is to be taken on the completion of the counting or any recount of the votes until the candidates and election agents (and counting agents duly authorised, in the case of a London members election) who are present at its completion have been given reasonable opportunity to exercise the right of demanding a recount[9].

1 For the meaning of 'Authority election' see para 10 ante; and for the meaning of 'candidate' generally see para 237 ante.
2 As to elections for the return of constituency or London members of the London Assembly see para 206 et seq ante. As to elections in the City of London see para 30 ante.
3 Ie including, in the case of a London members election, the election agent for a party list (in respect of any list candidate). As to individual candidates and the submission of lists of candidates to be London members of the London Assembly see para 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see para 262 note 24 ante. For the meaning of 'registered political party' in this context see para 233 note 16 ante. As to the appointment of election agents at Authority elections see para 238 et seq ante.
4 Ie any counting agent authorised under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 26(2A) (as added) (see para 399 ante). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.
5 As to the counting of votes at a London Authority election for the return of constituency or London members of the London Assembly see para 443 et seq ante.
6 For the meaning in this context of 'constituency returning officer' see para 218 note 8 ante.
7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 43(1), Sch 2 r 44(1) (amended by SI 2004/227).
8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 43(1), Sch 2 r 44(1).
9 Ibid Sch 1 r 43(2), Sch 2 r 44(2) (amended by SI 2004/227).

447. Procedure at conclusion of count at constituency members election. Where, after the counting of the votes (including any recount) is completed at a London Authority election[1] for the return of constituency members of the London Assembly[2], an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of those candidates to be declared elected, the constituency returning officer[3] must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote[4].

1 For the meaning of 'Authority election' see para 10 ante.
2 As to the counting of votes at a London Authority election for the return of constituency members of the London Assembly see para 443 et seq ante.

3 For the meaning in this context of 'constituency returning officer' see para 218 note 8 ante.
4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 44.

448. Procedure at conclusion of count at London members election. As soon as practicable after the completion of the local count[1] at a London Authority election[2] for the return of London members of the London Assembly[3], including any recount[4], the constituency returning officer[5] must draw up a statement showing: (1) the total number of votes cast[6]; (2) the total number of votes rejected[7]; (3) the number of votes given for each registered party by whom a party list was submitted[8]; and (4) the number of votes cast for each individual candidate[9]. As soon as practicable after completion of the statement, the constituency returning officer must inform the Greater London returning officer[10] of the contents of that statement[11].

As soon as practicable after the Greater London returning officer has authorised him to do so, the constituency returning officer must inform such of the candidates and their election agents as are then present of the content of the statement so prepared and of the statement showing the number of ballot papers rejected under the various heads[12] and he must give public notice of the contents of those statements[13].

1 As to the local count see para 442 note 3 ante.
2 For the meaning of 'Authority election' see para 10 ante.
3 As to the counting of votes at a London Authority election for the return of members of the London Assembly see para 443 et seq ante.
4 As to recounts of votes at a London Authority election for the return of members of the London Assembly see para 446 ante.
5 For the meaning in this context of 'constituency returning officer' see para 218 note 8 ante.
6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 45(1)(a).
7 Ibid Sch 2 r 45(1)(b). The text refers to votes rejected under Sch 2 r 42 (as amended) (see para 444 ante).
8 Ibid Sch 2 r 45(1)(c). As to the submission of lists of candidates to be London members of the London Assembly see para 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see para 262 note 24 ante. For the meaning of 'registered political party' in this context see para 233 note 16 ante.
9 Ibid Sch 2 r 45(1)(d). As to individual candidates to be London members of the London Assembly see para 233 ante.
10 For the meaning of 'Greater London returning officer' see para 218 note 7 ante.
11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 45(2).
12 Ibid Sch 2 para 45(3)(a). The text refers to the statement prepared under Sch 2 r 42 (as amended) (see para 444 ante). As to the various heads see para 444 heads (1)–(4) ante.
13 Ibid Sch 2 para 45(3)(b).

449. The calculation of the London figure for the allocation of seats at a London members election. The Greater London returning officer ('GLRO')[1] must make arrangements for making the allocation of seats at a London Authority election[2] for the return of London members of the London Assembly[3] in the presence of the election agents of the individual candidates[4] (including, in respect of any list candidate, the election agent for that party list)[5]; and the GLRO must give to those agents notice in writing of the time and place at which he will begin the allocation[6]. No person other than: (1) the GLRO and his clerks[7]; (2) the candidates[8]; (3) the election agents[9]; and (4) the nominating officers for those registered political parties[10] standing nominated at the election[11], may be present at an allocation unless permitted by the GLRO to attend[12]. A person not entitled to attend an allocation may not be permitted to do so by the GLRO unless the GLRO is satisfied that the efficiency of the allocation will not be impeded[13] and he has either consulted the election agents or thought it impracticable to do so[14].

As soon as the GLRO has received from every constituency returning officer[15] the contents of the statement showing the total number of votes cast and rejected (including the number of votes given for each registered party by whom a party list was submitted and for each individual candidate)[16], he must calculate the figure (the 'London figure')

for each registered party by which a party list has been submitted for that election and for each individual candidate[17]. The seats are then allocated in accordance with the rules[18]. If, at a contested election, proof is given to the GLRO's satisfaction before the result of the election is declared that one of the persons named as an individual candidate in the ballot papers, or whose name appears on a party list, has died, then the GLRO must make the calculation of the London figure without regard to that candidate[19]. As soon as the GLRO has ascertained the result of the calculation, he must inform such of the election agents for the candidates as are then present of the relevant figures[20] and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation[21].

1 For the meaning of 'Greater London returning officer' see para 218 note 7 ante.
2 For the meaning of 'Authority election' see para 10 ante.
3 As to the counting of votes at a London Authority election for the return of members of the London Assembly see para 443 et seq ante.
4 As to the appointment of election agents at Authority elections see para 238 et seq ante. As to individual candidates to be London members of the London Assembly see para 233 ante.
5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 46(1). As to the submission of lists of candidates to be London members of the London Assembly see para 233 ante; and as to references to party lists in elections for the return of London members of the London Assembly see para 262 note 24 ante.
6 Ibid Sch 2 r 46(1).
7 Ibid Sch 2 r 46(2)(a).
8 Ibid Sch 2 r 46(2)(b).
9 Ibid Sch 2 r 46(2)(c).
10 For the meaning of 'registered political party' in this context see para 233 note 16 ante. As to the appointment of nominating officers for registered political parties see para 260 ante.
11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 46(2)(d).
12 Ibid Sch 2 r 46(2).
13 Ibid Sch 2 r 46(3)(a).
14 Ibid Sch 2 r 46(3)(b).
15 For the meaning in this context of 'constituency returning officer' see para 218 note 8 ante.
16 Ie the information required to be submitted under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 45 (see para 448 ante).
17 Ibid Sch 2 r 47(1). As to the filling of vacancies arising in the London membership of the London Assembly see para 211 ante.
18 As to the allocation of London Assembly seats to the London members, and as to the significance of the London figure in that process, see para 345 ante.
19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 47(2).
20 For these purposes, the 'relevant figures' means:
   (1) the number of London votes given in the Assembly constituencies for each registered party by which a party list has been submitted for that election; and for each individual candidate at that election (ibid Sch 2 r 47(5)(a));
   (2) in respect of each party by whom a party list has been submitted, the number of successful candidates to be constituency members who were the subject of that party's authorisation under Sch 2 r 6(4) (as substituted) (authorised description: see para 263 ante) and whose particulars on the ballot paper included the party's registered emblem or, as the case may be, one of the party's registered emblems (Sch 2 r 47(5)(b));
   (3) the calculation of the London figure (Sch 2 r 47(5)(c));
   (4) any recalculation required by the Greater London Authority Act 1999 s 4(6), Sch 2 para 8(3) (allocation of second and subsequent seats: see para 345 ante), or carried out in the circumstances mentioned in Sch 2 para 8(8) (two or more registered parties or individual candidates having an equal number of votes in the case of the last seat to be allocated: see para 345 ante) (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 47(5)(d)); and
   (5) the number of persons whose names have been omitted from a party list, or who, pursuant to the Greater London Authority Act 1999 s 4, Sch 2 para 8(10) (person included on a list submitted by a registered political party returned as the Mayor of London or as a London Assembly member: see para 345 ante), are to be treated as ceasing to be on a party list (Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 47(5)(e)).

Where information of the description mentioned in head (5) supra is given, the GLRO must provide the persons to whom it was given with a statement containing the names of the persons concerned and, with respect to each such person, the name of the party from whose list his name has been omitted or treated as omitted, and the reason therefor: Sch 2 r 47(4).

21 Ibid Sch 2 r 47(3).

(C) Counting at Elections of a Local Authority Mayor or London Mayor

450. Attendance at count at elections of a local authority mayor or London Mayor. As soon as practicable after the close of the poll, the returning officer at a mayoral election[1] must make arrangements for counting the votes in the presence of the counting agents appointed for the purposes of the election[2]. The returning officer must give to the counting agents notice in writing of the time and place at which he will begin to carry out the counting of the votes[3]. In the case of a local authority mayoral election, he must also give to the counting agents notice in writing of the time and place at which he will begin any count of the second preference votes[4].

No person other than: (1) the returning officer and his clerks[5]; (2) the candidates and their spouses or civil partners[6]; (3) the election agents[7]; (4) the counting agents[8]; and (5) in the case of a London mayoral election, any person authorised by the Electoral Commission to attend at the counting of the votes[9] as a representative of the Commission[10], may be present at the counting of the votes, unless permitted by the returning officer to attend[11]. A person not entitled to attend at the counting of the votes may not be permitted to do so by the returning officer unless he is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents or thought it impracticable to do so[12]. The returning officer must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance[13].

The returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them[14]. In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted[15].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes[16].

1 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see para 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante). For the meanings of 'Authority election' and 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante. As to elections for the return of a local authority mayor see para 205 ante.

2 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 40(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 40(1). At any London mayoral election which is not an ordinary election, the count does not include the separation and verification of the ballot papers: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(1)(a), (b). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante. The count at a local authority mayoral election is known as the 'first count'; at a London mayoral election, it is known as a 'local count'.

3 Ibid Sch 3 r 40(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(1)(a). At an ordinary London mayoral election, the notice will include also the time and place at which the returning officer will begin the verification of the ballot papers.

4 Ibid Sch 1 r 40(1)(b). As to elections at which second preference votes are cast see para 346 ante; and as to the counting of second preference votes at a local authority or London mayoral election see para 458 post.
5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)(a).
6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(b) (amended by SI 2005/2114); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)(b) (amended by SI 2005/2114).
7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)(c). As to the appointment of election agents at local authority or London mayoral elections see para 238 et seq ante.
8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)(d).
9 As to the Electoral Commission see para 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see para 48 ante.
10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2)(e) (added by SI 2004/227).
11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2).
12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(3).
13 See paras 390 ante, 742–744 post.
14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(4).
15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(5).
16 As to polls at elections or referendums which are taken together see para 16 et seq ante.

451. The first count at election of local authority mayor; the local count at election of London Mayor. At the first count at a local authority mayoral election or at the local count at a London mayoral election[1], the returning officer[2] must: (1) in the presence of the counting agents[3] open each ballot box and count and record the number of ballot papers used in the election[4]; (2) count such of the postal ballot papers as have been duly returned and record the number counted[5]; and (3) in the case of a London mayoral ordinary election, separate the ballot papers relating to the mayoral election from those relating to the constituency members election and the London members election[6]. A postal ballot paper must not be taken to be duly returned unless it is returned in the appropriate manner[7] and reaches the returning officer or a polling station in the London Assembly constituency or local authority electoral area in question (as the case may be) before the close of the poll[8], and unless the declaration of identity[9], duly signed and authenticated, is also returned in the appropriate manner[10] and reaches him or such a polling station before that time[11].

At a local authority mayoral election, the returning officer must not count the votes given on any ballot papers until, in the case of postal ballot papers, they have been mixed with the ballot papers from at least one other ballot box[12], and, in the case of ballot papers from a ballot box, until they have been mixed with the ballot papers from at least one other ballot box[13]. At a London mayoral election, the constituency returning officer must mix together all of the ballot papers used at that election in the Assembly constituency[14]. Once the ballot papers have been mixed as required, the returning officer must then, where the election is contested by more than two candidates, count the first preference votes given on them[15] and, where the election is contested by only two candidates, count the votes given on them[16]. The returning officer must not count any tendered ballot paper[17]. While counting and recording the number of ballot papers and counting the votes, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers[18].

The returning officer must, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, except that he may exclude the hours between five in the afternoon and ten on the following morning[19]. However, in the case of a London mayoral election, this exception applies only in so far as the returning officer and the counting agents agree, for which purposes the agreement of a candidate or his election agent is as effective as the agreement of his counting agents[20], and, in the case of an ordinary election, only with the prior consent of the Greater London returning officer[21].

During the time so excluded, the returning officer must: (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals[21]; and (b) otherwise take proper precautions for the security of the papers and documents[22].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes[23].

1 As to elections for the return of a local authority mayor see para 205 ante; and as to elections for the return of the London Mayor see para 206 et seq ante. As to elections in the City of London see para 30 ante. As to use of the terms 'first count' and 'local count' see para 450 note 2 ante.

2 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see para 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante).

3 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante. For the purposes of a London mayoral ordinary election, the text refers to the counting agents appointed for the purposes of the constituency members election, the London members election and the mayoral election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 41(1)(a).

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(1)(a), (2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 41(1)(a), (2)(a). For the purposes of a London mayoral ordinary election, the constituency returning officer, when recording the number of ballot papers used, must record separately the number of ballot papers used in each election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(1)(a). At an ordinary London Authority election where the Greater London returning officer has decided that the ballot papers are to be placed in separate ballot boxes according to whether the votes given on them are cast in the election under the constituency members election rules, the London members election rules or the mayoral election rules (see r 3, Sch 4 r 6(1); and para 396 note 4 ante), the ballot boxes from each polling station must be opened together, and the ballot papers counted together: Sch 4 r 12(1). For the meaning of 'Greater London returning officer' see para 218 note 7 ante. As to the constituency members election rules, the London members election rules and the mayoral election rules see para 388 ante.

5 Ibid Sch 3 r 41(1)(c), (2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(1)(c). For the purposes of a London mayoral ordinary election, the constituency returning officer, when recording the number of postal ballot papers, must record separately the number of postal ballot papers counted at each election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(1)(c).

6 Ibid Sch 3 r 41(1)(d).

7 The manner in which any postal ballot paper or declaration of identity may be returned to the returning officer at a local authority or London mayoral election is by hand or by post and to a polling station (in the London Assembly constituency or local authority electoral area in question, as the case may be) it is by hand: ibid Sch 3 r 41(4) (substituted by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(5). For the meaning of 'Assembly constituency' for the purposes of London Authority elections see para 10 note 6 ante.

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(4)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(4)(a).

9 As to the declaration of identity see para 411 ante.

10 See note 7 supra.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(4)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(4)(b). As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see further para 425 ante.

12 Ibid Sch 1 r 41(2)(a).
13 Ibid Sch 1 r 41(2)(b).
14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(3).
15 Ibid Sch 3 r 41(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(3)(a).
16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(3)(b).
17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(6). As to tendered ballot papers see para 408 ante. As to adding votes on a scrutiny see para 842 post.
18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(6); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(7). As to the number which must be printed on the back of every ballot paper see para 392 ante.
19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(8); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(9).
20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(8) (amended by SI 2000/1040).
21 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 12(2).
21 Ibid Sch 3 r 41(9)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(10)(a).
22 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(9)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(10)(b).
23 As to polls at elections or referendums which are taken together see para 16 et seq ante.

452. Verification of the ballot paper account at elections of a local authority mayor or London Mayor. In the presence of the election agents[1], the returning officer at the first count at a local authority mayoral election or at the local count at a London mayoral election[2] must verify each ballot paper account[3]. He does this by comparing each ballot paper account with the number of ballot papers recorded by him[4], and the unused and spoilt ballot papers[5] in his possession and the tendered votes list[6] (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)[7].

He must draw up a statement as to the result of the verification, which any election agent may copy[8].

1 In relation to a London mayoral ordinary election, the text refers to the election agents appointed for the purposes of the constituency members election, the London members election and the mayoral election: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 41(1)(b). As to the appointment of election agents at local authority or London mayoral elections see para 238 et seq ante.
2 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see para 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante). As to elections for the return of a local authority mayor see para 205 ante; and as to elections for the return of London Mayor see para 206 et seq ante. As to elections in the City of London see para 30 ante. As to use of the terms 'first count' and 'local count' see para 450 note 2 ante.
3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(1)(b), (2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 41(1)(b). As to the ballot paper account see para 410 ante. At an ordinary London Authority election where the Greater London returning officer has decided that the ballot papers are to be placed in separate ballot boxes according to whether the votes given on them are cast in the election under the constituency members election rules, the London members election rules or the mayoral election rules (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 6(1); and para 396 note 4 ante), the ballot boxes from each polling station must be opened together, and the ballot papers verified together: Sch 4 r 12(1). For the meaning of 'Greater London returning officer' see para 218 note 7 ante. As to the constituency members election rules, the London members election rules and the mayoral election rules see para 388 ante.
4 As to the returning officer's duty to record the number of ballot papers counted and verify the account see para 432 ante.
5 As to spoilt ballot papers see para 409 ante.
6 As to the tendered votes list see para 408 ante.

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 3 r 41(8).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(7); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 3 r 41(8).

453. Rejected ballot papers at elections of a local authority mayor or London Mayor. At the first count at a local authority mayoral election or at the local count at a London mayoral election[1], any ballot paper which does not bear the official mark[2], or on which anything is written or marked by which the voter can be identified except the printed number on the back[3], or which is unmarked or void for uncertainty as to the first preference vote[4], is void and not counted[5]. However, a ballot paper on which a vote is marked elsewhere than in the proper place[6], or otherwise than by means of a cross[7], or by more than one mark[8], is not for such reason void if, at an election at which more than two candidates remain validly nominated, an intention that votes are given, by way of a first preference vote, for not more than one of the candidates clearly appears[9] or if, at any other election, an intention that a vote is for one only of the candidates clearly appears[10], and (in each case) the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it[11]. A ballot paper which is not otherwise void and on which not more than one first preference vote is marked (whether or not a second preference vote is marked) is valid as respects that vote, and counted accordingly[12].

The returning officer[13] must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent[14] to his decision[15]. The returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark[16]; (2) voting for more than one candidate as to the first preference vote[17]; (3) writing or mark by which the voter could be identified[18]; (4) unmarked or void for uncertainty as to the first preference vote[19]. As soon as practicable after completion of such a statement in relation to a London mayoral election, the constituency returning officer must inform the Greater London returning officer of its contents[20].

1 As to elections for the return of a local authority mayor see para 205 ante; and as to elections for the return of London Mayor see para 206 et seq ante. As to elections in the City of London see para 30 ante. As to use of the terms 'first count' and 'local count' see para 450 note 2 ante.

2 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 42(1)(aa) (added by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 42(1)(a). As to the official mark see para 392 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(1)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(1)(b). As to the number which must be printed on the back of every ballot paper see para 392 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(1)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(1)(c). In the case of a London mayoral election, the words 'or void for uncertainty as to the first preference vote' do not appear (see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(1)(b)), although they do appear as one of the heads under which a statement must be made, showing the number of ballot papers rejected (see Sch 3 r 42(5); and head (4) in the text).

5 Ibid Sch 3 r 42(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(1). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(a).

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(b).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(c).

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(i); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(i).
10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2)(ii); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2)(ii).
11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(2).
12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(3).
13 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see para 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante).
14 As to the discharge of this function by the candidate or (where there is such an agent) his election agent see para 399 ante.
15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(4).
16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(5)(aa) (added by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(5)(a).
17 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(5)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(5)(b).
18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(5)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(5)(c).
19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(5)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(5)(d).
20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(6). For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

454. Conclusiveness of returning officer's decision as to ballot papers at elections of a local authority mayor or London Mayor. At the first count at a local authority mayoral election or at the local count at a London mayoral election[1], the decision of the returning officer[2] on any question arising in respect of a ballot paper is final, but is subject to review on an election petition[3].

1 As to elections for the return of a local authority mayor see para 205 ante; and as to elections for the return of London Mayor see para 206 et seq ante. As to elections in the City of London see para 30 ante. As to use of the terms 'first count' and 'local count' see para 450 note 2 ante.
2 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see para 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante).
3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 43; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 43. As to the rejection of ballot papers at local authority or London mayoral elections see para 453 ante; and as to petitions questioning such elections see para 760 et seq post.

455. Recount at elections of a local authority mayor or London Mayor. A candidate at a local authority or London mayoral election[1] or his election agent[2] (or, at a London mayoral election where a candidate's counting agent has been authorised by the terms of his appointment to require a recount at the local count[3], his counting agent) may, if present when the counting or any recount of the votes, or as the case may be, the first preference votes, is completed[4], require the returning officer[5] to have the votes recounted or again recounted[6]. However, the returning officer may refuse to do so if in his opinion the request is unreasonable[7]. No step may be taken on the completion of the counting or any recount of the votes or, as the case may be, the first preference votes until the candidates and election agents and counting agents so authorised who are present at its completion have been given reasonable opportunity to exercise the right of demanding a recount[8].

1 For the meaning of 'candidate' generally see para 237 ante. As to elections for the return of a local authority mayor see para 205 ante; and as to elections for the return of London Mayor see para 206 et seq ante. As to elections in the City of London see para 30 ante.
2 As to the appointment of election agents for Authority elections see para 238 et seq ante.
3 Ie authorised under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 26(2A) (as added) (see para 399 ante). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.
4 As to the count generally see para 450 et seq ante. As to use of the terms 'first count' and 'local count' for these purposes see para 450 note 2 ante.
5 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see para 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante).
6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(1) (amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 44(1).
7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 44(1).
8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(2) (amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 44(2).

456. Procedure at conclusion of first count at a local authority mayoral election. As soon as practicable after the conclusion of the first count at a local authority mayoral election[1] (including any recount)[2], the returning officer[3] must draw up a statement showing: (1) the total number of ballot papers used[4]; (2) the total number of rejected ballot papers[5]; and (3) at an election contested by more than two candidates, the number of first preference votes given to each candidate[6] and the total number of first preference votes given[7] or, at an election contested by only two candidates, the number of votes given for each candidate[8]. As soon as practicable after completion of the statement, the returning officer must inform such of the candidates[9] and their election agents[10] as are then present of its contents and the contents of the statement previously prepared showing the number of ballot papers rejected under the various heads[11], and he must give public notice of the contents of those statements[12].

Where an election is contested by only two candidates[13] and the total number of votes given for each of them is unequal[14], the person to be returned as the elected mayor is the candidate to whom the majority of the votes is given[15]. However, where an election is contested by only two candidates[16] and the total number of votes given for each of them is equal[17], the returning officer must decide by lot which of them is to be returned as the elected mayor[18]. In either such case, the declaration of the person to be returned as the elected mayor must then be made[19].

Where an election is contested by more than two candidates, the returning officer must, if a candidate has an overall majority of first preference votes[20], make the required declaration of the result[21]. However, if no candidate has an overall majority of first preference votes[22], the returning officer must count the second preference votes at the time and place previously notified[23].

1 As to elections for the return of a local authority mayor see para 205 ante. As to use of the term 'first count' see para 450 note 2 ante.
2 As to recounts at elections for the return of a local authority mayor see para 455 ante.
3 As to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante.
4 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 45(1)(a).
5 Ibid Sch 1 r 45(1)(b). As to the rejection of ballot papers at the election of a local authority mayor see para 453 ante.
6 Ibid Sch 1 r 45(1)(c)(i).

7 Ibid Sch 1 r 45(1)(c)(ii).
8 Ibid Sch 1 r 45(1)(d).
9 For the meaning of 'candidate' generally see para 237 ante.
10 As to the appointment of election agents at local authority mayoral elections see para 238 et seq ante.
11 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 45(2)(a). The text refers to the contents of the statement prepared in accordance with Sch 1 r 42(5) (see para 453 ante).
12 Ibid Sch 1 r 45(2)(b).
13 Ibid Sch 1 r 45(4)(a).
14 Ibid Sch 1 r 45(4)(b).
15 Ibid Sch 1 r 45(4).
16 Ibid Sch 1 r 45(5)(a).
17 Ibid Sch 1 r 45(5)(b).
18 Ibid Sch 1 r 45(5).
19 Ibid Sch 1 r 45(6). The text refers to the declaration required by Sch 1 r 48 (see para 485 post).
20 Ie if the Local Government Act 2000 s 42(3), Sch 2 para 2 applies (see para 346 ante).
21 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 45(3)(a). The text refers to the declaration required by Sch 1 r 48(1) (see para 485 post).
22 Ie if the Local Government Act 2000 Sch 2 para 3 applies (see para 346 ante).
23 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 45(3)(b). The text refers to counting the second preference votes at the time and place notified in accordance with Sch 1 r 40(1)(b) (see para 450 ante). As to the counting of second preference votes at the election of a local authority mayor see para 458 post.

457. Procedure at conclusion of local count at a London mayoral election. As soon as practicable after the conclusion of the local count at a London mayoral election[1] (including any recount)[2], the constituency returning officer[3] must draw up a statement showing: (1) the total number of ballot papers used[4]; (2) the total number of rejected ballot papers[5]; and (3) at an election contested by more than two candidates, the number of first preference votes given for each candidate[6] and the total number of first preference votes given[7] or, at an election contested by only two candidates, the number of votes given for each candidate[8]. As soon as practicable after completion of the statement, the constituency returning officer must inform the Greater London returning officer ('GLRO')[9] of its contents[10] and, as soon as practicable after the GLRO has authorised him to do so, the constituency returning officer must inform such of the candidates[11] and their election agents[12] as are then present of its contents and the contents of the statements previously prepared showing the number of ballot papers rejected under the various heads[13] and give public notice of the contents of those statements[14].

The GLRO must make arrangements for making the central calculation in the presence of the election agents and he must give to those agents notice in writing of the time and place at which he will begin the calculation[15]. No person other than the GLRO and his clerks[16], the candidates[17], the election agents[18], any person authorised by the Electoral Commission to attend at the counting of the votes as a representative of the Commission[19] and, at an ordinary election, the nominating officers permitted to be present at the allocation of seats for London members of the Assembly[20], may be present at a calculation, unless permitted by the GLRO to attend[21]. A person not entitled to attend a calculation may not be permitted to do so by the GLRO unless he is satisfied that the efficiency of the calculation will not be impeded[22] and he has either consulted the election agents or thought it impracticable to do so[23].

As soon as the GLRO has received from every constituency returning officer the required statements containing the information regarding the totals of ballot papers used and rejected and the number of votes given to each candidate[24], he must, in relation to an election contested by more than two candidates, ascertain the total of the first preference votes given in the Assembly constituencies to each candidate[25] and, in

relation to an election contested by only two candidates, ascertain the total number of votes given in the Assembly constituencies to each candidate[26]. As soon as the GLRO has ascertained the result of the calculation, he must inform such of the election agents as are then present of the relevant figures[27] and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation[28].

Where an election is contested by only two candidates and the total number of votes given for each of them is unequal, the person to be returned as the Mayor of London is the candidate to whom the majority of the votes is given[29]. However, where an election is contested by only two candidates and the total number of votes given for each of them is equal, the person to be returned as the Mayor is the person whom the GLRO decides by lot[30] is to be returned as the Mayor[31]. In either such case, the declaration of the person to be returned as the Mayor then must be made[32].

Where an election is contested by more than two candidates, the GLRO must, if a candidate has an overall majority of first preference votes[33], make the required declaration of the result[34]. However, if no candidate has an overall majority of first preference votes[35], the GLRO must direct every constituency returning officer at the election to ascertain the number of second preference votes given in the election for each of the remaining candidates by voters who did not give their first preference vote to any of those candidates[36].

1 As to elections for the return of London Mayor see para 206 et seq ante. As to use of the term 'local count' see para 450 note 2 ante.
2 As to recounts at elections for the return of London Mayor see para 455 ante.
3 For the meaning of 'constituency returning officer' in relation to a London Authority election see para 218 note 8 ante.
4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 45(1)(a).
5 Ibid Sch 3 r 45(1)(b). As to the rejection of ballot papers at the election of a London Mayor see para 453 ante.
6 Ibid Sch 3 r 45(1)(c)(i).
7 Ibid Sch 3 r 45(1)(c)(ii).
8 Ibid Sch 3 r 45(1)(d).
9 For the meaning of 'Greater London returning officer' see para 218 note 7 ante.
10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 45(2).
11 For the meaning of 'candidate' generally see para 237 ante.
12 As to the appointment of election agents at London mayoral elections see para 238 et seq ante.
13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 45(3)(a). The text refers to the contents of the statements prepared in accordance with Sch 3 r 42 (as amended) (see para 453 ante).
14 Ibid Sch 3 r 45(3)(b).
15 Ibid Sch 3 r 46(1).
16 Ibid Sch 3 r 46(2)(a).
17 Ibid Sch 3 r 46(2)(b).
18 Ibid Sch 3 r 46(2)(c) (amended by SI 2004/227).
19 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 46(2)(d) (added by SI 2004/227). As to the Electoral Commission see para 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see para 48 ante.
20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 46(2)(e) (renumbered by SI 2004/227). As to the allocation of seats for London members of the Assembly see para 449 ante.
21 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 46(2).
22 Ibid Sch 3 r 46(3)(a).
23 Ibid Sch 3 r 46(3)(b).
24 Ie the information required to be given by the constituency returning officer under ibid Sch 3 r 45 (see the text and notes 1–14 supra).
25 Ibid Sch 3 r 47(1)(a).
26 Ibid Sch 3 r 47(1)(b).
27 For these purposes, the 'relevant figures' means: (1) in the case of an election contested by more than two candidates, the number of first preference votes given in each of the Assembly constituencies for each candidate and the calculation undertaken by the GLRO for the purposes of ascertaining whether a candidate is to be returned in accordance with the Greater London Authority Act 1999 s 4, Sch 2 para 3 (candidate with overall majority of first preference votes: see para 346 ante) (Greater London Authority

Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(3)(a)); (2) in the case of an election contested by only two candidates, the number of votes given in each Assembly constituency for each candidate and the total number of votes given for each candidate (Sch 3 r 47(3)(b)). For the meaning of 'Assembly constituency' for the purposes of London Authority elections see para 10 note 6 ante.

28 Ibid Sch 3 r 47(2).

29 Ibid Sch 3 r 47(5).

30 Ie in accordance with the Greater London Authority Act 1999 Sch 2 para 4(8) (see para 346 ante).

31 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(6).

32 Ibid Sch 3 r 47(7). The text refers to the declaration required by Sch 3 r 50 (see para 485 post).

33 Ie if the Greater London Authority Act 1999 Sch 2 para 3 applies (see para 346 ante).

34 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(4)(a). The text refers to the declaration required by Sch 3 r 50(1) (see para 485 post).

35 Ie if the Greater London Authority Act 1999 Sch 2 para 4(1) applies (see para 346 ante)/

36 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(4)(b). The text refers to the count of second preference votes as mentioned in the Greater London Authority Act 1999 Sch 2 para 4(5) (see para 346 ante).

458. The count of second preference votes at elections of a local authority mayor or London Mayor. The returning officer at a local authority mayoral election or at a London mayoral election[1] must count the number of second preference votes for each of the candidates remaining in the contest given by voters who did not give their first preference vote to any of those candidates[2]. A ballot paper which is not otherwise void[3] and on which not more than one second preference vote is marked is valid as respects that vote and must be counted accordingly if, but only if, a valid first preference vote has also been marked[4].

The provisions which govern the first count at a local authority mayoral election or the local count at a London mayoral election in respect of: (1) attendance at the count[5]; (2) the restriction on counting tendered ballot papers[6]; (3) counting procedure[7]; (4) the rejection of ballot papers[8]; (5) requesting a recount[9]; and (6) in relation to a London mayoral election only, attendance at the central calculation[10], are applied with modifications in relation to the count of second preference votes[11].

The returning officer is not required to re-examine any decision taken on any question arising in respect of a ballot paper[12].

At a London mayoral election, as soon as practicable after the second preference votes have been counted, the constituency returning officer must inform the Greater London returning officer[13] of the number of second preference votes cast for each of the candidates remaining in the contest[14].

1 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see para 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which in relation to a London Authority election see para 218 note 8 ante). As to elections for the return of a local authority mayor see para 205 ante; and as to elections for the return of London Mayor see para 206 et seq ante. As to elections in the City of London see para 30 ante.

2 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 48(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 46(1). In the case of a London mayoral election, the constituency returning officer must count the number of second preference votes as soon as he has received such a direction as is mentioned in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 47(4)(b) (direction to every constituency returning officer at the election to count the second preference votes given: see para 457 ante).

3 As to the rejection of ballot papers at local authority or London mayoral elections see para 453 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 46(2).

5 Ie, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 40 (as amended) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 40(2)–(5) (as amended) (see para 450 ante).

6 Ie, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(5) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(6) (see para 451 ante).

7 Ie, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 41(6), (8), (9) (as amended) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 41(7), (9), (10) (see para 451 ante).

8 Ie, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 42(1), (2), (4)–(6) (as amended) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 42(1), (2), (4), (5) (see para 453 ante).

9 Ie, in relation to a London mayoral election, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(1) (as amended) or, in relation to a local authority mayoral election, the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 44(1) (see para 455 ante).

10 Ie the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 46 (as amended) (see para 457 ante).

11 Ibid Sch 3 r 48(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 46(3). The modifications are that: (1) references to first preference votes should be taken as references to second preference votes; and (2) the words 'the votes or, as the case may be' should be omitted, in relation to a London mayoral election, from the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 44(1) (as amended) or, in relation to a local authority mayoral election, from the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 44(1) (see para 455 ante): see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(3); and the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 46(3).

12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 46(4). The text refers to any decision taken, in relation to a London mayoral election, under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 43 or, in relation to a local authority mayoral election, under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 43 (see para 454 ante).

13 For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(5).

459. Procedure at conclusion of count of second preference votes at elections of a local authority mayor or London Mayor. The appropriate returning officer at a local authority mayoral election or at a London mayoral election[1] must add the number of second preference votes given in the election for each of the candidates remaining in the contest by voters who did not give their first preference vote to any of those candidates to the number of first preference votes given for that candidate, to give his total number of preference votes (the 'second calculation')[2].

As soon as practicable after the completion of this operation, the returning officer must provide such of the election agents for those candidates[3] who remain in the contest as are then present with a copy of the relevant figures[4] or, in the case of a local authority mayoral election, the statement of figures[5] and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation[6]. If, after the second calculation, the total number of votes given for two or more candidates remaining in the contest is equal, the person to be returned as the elected mayor is the person whom the returning officer decides by lot[7] is to be returned as the elected mayor[8].

1 As to returning officers for local government elections (including London Authority elections and local authority mayoral elections) see para 359 et seq ante. In the case of a London mayoral election, the appropriate returning officer in this context is the Greater London returning officer (for the meaning of which in relation to a London Authority election see para 218 note 7 ante). As to elections for the return of a local authority mayor see para 205 ante; and as to elections for the return of London Mayor see para 206 et seq ante. As to elections in the City of London see para 30 ante.

2 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 49(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 47(1).

In the case of a London mayoral election, the text refers to the Greater London returning officer complying with the Greater London Authority Act 1999 s 4, Sch 2 para 4(5), (6) (see para 346 ante) as soon as he has received from every constituency returning officer the number of second preference votes cast for each of the candidates remaining in the contest as required by the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 48(5) (see para 458 ante).

In the case of a local authority mayoral election, the text refers to the returning officer complying with the Local Government Act 2000 s 42(3), Sch 2 para 3(6) (see para 346 ante). For the purposes of a local authority mayoral election, the returning officer must then draw up a statement showing: (1) the total number of first preference votes given for each candidate (Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 47(2)(a)); (2) the total number of second preference votes given for each of the candidates remaining in the contest after the count of the first preference votes (Sch 1 r 47(2)(b)); (3) the total number of votes given for each of those candidates (Sch 1 r 47(2)(c)); and (4) the number of ballot papers that were: (a) valid as respects a first preference vote given for a candidate who did not remain in the contest after the count of the first preference votes (Sch 1 r 47(2)(d)(i)); and (b) rejected for the purposes of the count of second preference votes on the ground that they were unmarked or void for uncertainty as to the second preference vote (Sch 1 r 47(2)(d)(ii)).

For the meaning of 'candidate' generally see para 237 ante. As to the rejection of ballot papers at local authority or London mayoral elections see para 453 ante.

3 As to the appointment of election agents at local authority or London mayoral elections see para 238 et seq ante.

4 For the purposes of a London mayoral election, the 'relevant figures' means the number of second preference votes given in each of the Assembly constituencies for each of the candidates remaining in the contest and the calculation undertaken by the Greater London returning officer for the purpose of ascertaining the total number of first and second preference votes given to each of those candidates: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 49(3).

5 As to the statement of figures referred to in the text see note 2 supra.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 49(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 47(3).

7 Ie, in relation to a London mayoral election, in accordance with the Greater London Authority Act 1999 Sch 2 para 4(8) and, in relation to a local authority mayoral election, in accordance with the Local Government Act 2000 Sch 2 para 3(8) (see para 346 ante).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 49(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 47(4).

(D) Counting at National Assembly for Wales Constituency and Regional Elections

460. Time of count at a Welsh Assembly election; attendance at count. As soon as practicable after the close of the poll, the constituency returning officer at a Welsh Assembly election[1] must make arrangements for counting the votes in the presence of the counting agents appointed for the purposes of the election[2]. The returning officer must give to the counting agents notice in writing of the time and place at which he will begin to carry out the counting of the votes[3]. At an ordinary election where there are polls at a regional election and at constituency elections in the Assembly electoral region[4] for which the regional election is held, the Secretary of State[5] may direct that the count[6] in respect of each such election must not begin before such time as is specified in the direction between the hours of nine in the morning and noon on the day following the close of polls for those elections[7].

No person other than: (1) the constituency returning officer and his clerks[8]; (2) the candidates and their spouses or civil partners[9]; (3) the election agents[10]; (4) the counting agents[11]; and (5) in the case of a regional election, the regional returning officer[12], may be present at the arrangements made for counting the votes[13] or at the counting of the votes, unless permitted by the constituency returning officer to attend[14]. A person not entitled to attend at the arrangements made for counting the votes or at the counting of the votes may not be permitted to do so by the constituency returning officer unless he is satisfied that the efficient counting of the votes will not be impeded and he has either

consulted the election agents or thought it impracticable to do so[15]. The returning officer must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance[16].

The constituency returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them[17]. In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom a vote is given, in the case of a constituency election, or according to the individual candidate[18] or registered political party[19] for which a vote is given, in the case of a regional election, and then counting the number of ballot papers for each such candidate or party, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted[20].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes[21].

1 For the meaning of 'Assembly election', in the context of Welsh Assembly elections, see para 3 note 1 ante; and for the meaning of 'constituency returning officer' see para 18 note 2 ante.

2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 49(1)(a). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.

3 Ibid Sch 5 para 49(1)(b). The notice referred to in the text must be: (1) of the time and place (or places, if the exercise of the power conferred by Sch 5 para 50(2) (see para 461 post) means that there is more than one place) at which the arrangements made for counting the votes under Sch 5 para 50(1) (as amended) (see para 461 post) will begin (Sch 5 para 49(1)(b)(i)); (2) in the case where the power conferred by Sch 5 para 50(2) is exercised, of the time and the place at which he will count the votes following completion of the arrangements made for counting the votes under Sch 5 para 50(1) (as amended) (Sch 5 para 49(1)(b)(ii)); and (3) in the case of a direction under Sch 5 para 49(4) (see the text and notes 4–7 infra), of the time and the place at which he will count the votes following completion of the arrangements made for counting the votes under Sch 5 para 50(1) (as amended) (Sch 5 para 49(1)(b)(iii)). A notice under Sch 5 para 49(1)(b) may be combined with another such notice: Sch 5 para 49(1)(b). At a Welsh Assembly regional election, such a notice must also be given to the regional returning officer: Sch 5 para 49(2). At an ordinary Welsh Assembly election, a notice required under Sch 5 para 49(1)(b) in respect of a constituency or a regional election may be combined with such a notice in respect of the other election: Sch 5 para 49(3). As to ordinary Welsh Assembly elections see para 12 et seq ante. For the purposes of elections other than ordinary elections, the references in Sch 5 para 49(1) to Sch 5 para 50(1) (as amended) must be construed as references to Sch 5 para 50(13): see Sch 5 para 50(12)(b); and para 461 post.

4 For the meaning of 'Assembly electoral region' see para 3 note 1 ante.

5 As to the Secretary of State see para 2 ante.

6 Ie excluding the arrangements made for counting the votes under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1) (as amended) (see para 461 post).

7 Ibid Sch 5 para 49(4). Any such direction must be given not later than 28 days before the date of the ordinary election in question: Sch 5 para 49(5). Where such a direction is given, during the period beginning with the conclusion of the arrangements made for counting the votes under Sch 5 para 50(1) (as amended) (see para 461 post) and ending with the time specified in the direction, the constituency returning officer must place the ballot papers and other documents relating to each election under his own seal and the seals of such of the counting agents as desire to affix their seals and otherwise take proper precautions for the security of the papers and documents: Sch 5 para 49(6). As to the computation of time for these purposes see para 223 note 1 ante.

8 Ibid Sch 5 para 49(7)(a).

9 Ibid Sch 5 para 49(7)(b) (amended by SI 2005/2114). For the meaning of 'candidate' generally see para 237 ante.

10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 49(7)(c). As to the appointment of election agents at Welsh Assembly elections see para 242 et seq ante.

11 Ibid Sch 5 para 49(7)(d). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.
12 Ibid Sch 5 para 49(7)(f). Note that there appears to be no provision numbered Sch 5 para 49(7)(e).
13 Ie the arrangements made for counting the votes under ibid Sch 5 para 50(1) (as amended) (see para 461 post). For the purposes of elections other than ordinary elections, the references in Sch 5 para 49(7), (8) (see the text and notes 14–15 infra) must be construed as references to Sch 5 para 50(13): see Sch 5 para 50(12)(b); and para 461 post.
14 Ibid Sch 5 para 49(7).
15 Ibid Sch 5 para 49(8). See note 13 supra.
16 See paras 390 ante, 742–744 post.
17 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 49(9).
18 For the meaning of 'individual candidate', in the context of a Welsh Assembly regional election, see para 237 note 23 ante.
19 For the meaning of 'registered political party', in the context of a Welsh Assembly regional election, see para 237 note 23 ante.
20 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 49(10).
21 As to polls at elections or referendums which are taken together see para 16 et seq ante.

461. The count at a Welsh Assembly election. Where voters[1] have been entitled at an ordinary Welsh Assembly election[2] to give two votes in an Assembly constituency[3], the constituency returning officer must[4]: (1) in the presence of the counting agents appointed for the purposes of each election open each ballot box and count and record separately the number of ballot papers in those boxes for each election[5]; (2) in the presence of the election agents[6] appointed for the purposes of each election verify each ballot paper account[7]; (3) count such of the postal ballot papers as have been duly returned and record separately the number counted for each election[8]; and (4) separate the ballot papers relating to the constituency election from those relating to the Assembly regional election[9]. A postal ballot paper must not be taken to be duly returned unless it is returned and the declaration of identity[10], duly signed and authenticated, is also returned, before the close of the poll, by hand to a polling station in the same Assembly constituency or by hand or by post to the constituency returning officer[11]. Following completion of the proceedings described in heads (1) to (4) above, the constituency returning officer must in respect of the ballot papers relating to each election mix together all the ballot papers used at that election and count the votes given on them[12].

The constituency returning officer must not count any tendered ballot paper[13]. While counting and recording the number of ballot papers and counting the votes, the constituency returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers[14]. The constituency returning officer must, so far as practicable, proceed continuously with the votes, allowing only time for refreshment, except that he may, in so far as he and the counting agents appointed for the purpose of the election in question agree, exclude the hours between seven in the evening and nine on the following morning[15]. For the purposes of this exception the agreement, in the case of a constituency election, of a candidate[16] or his election agent or, in the case of a regional election, an individual candidate or his election agent or the election agent for a group of party list candidates[17], is as effective as the agreement of his counting agents[18]. During the time so excluded, the constituency returning officer must: (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals[19]; and (b) otherwise take proper precautions for the security of the papers and documents[20].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for counting the votes[21].

1 Ie subject to the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 50(6A) (as added) (see para 425 ante). For the purposes of the statutory provisions governing elections, a voter is defined as a person voting at an election and includes a person voting as proxy (but not necessarily a person voting by proxy); and, in relation to Welsh Assembly elections, see para 124 note 5 ante.

2 For the meaning of 'Assembly election', in the context of Welsh Assembly elections, see para 3 note 1 ante. As to ordinary Welsh Assembly elections see para 220 et seq ante.

3 Ie a constituency vote and an electoral region vote: see para 369 ante. For the meanings of 'Assembly constituency', 'Assembly constituency election', 'Assembly electoral region' and 'Assembly regional election' see para 3 note 1 ante.

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1) (amended by SI 2006/884). For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see para 18 note 2 ante. Where the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1) (as amended) does not apply, the constituency returning officer must instead: (1) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in those boxes (Sch 5 para 50(12)(a), (13)(a)); (2) in the presence of the election agents verify each ballot paper account (Sch 5 para 50(12)(a), (13)(b)); and (3) count such of the postal ballot papers as have been duly returned and record the number counted (Sch 5 para 50(12)(a), (13)(c)). Accordingly, the references in Sch 5 para 49(1), (7), (8) (see para 460 ante) and in Sch 5 para 50(2), (3) (see note 12 infra) to Sch 5 para 50(1) (as amended) must be construed as references to Sch 5 para 50(13): Sch 5 para 50(12)(b). As to the ballot paper account see para 410 ante. As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.

5 Ibid Sch 5 para 50(1)(a).

6 As to the appointment of election agents at Welsh Assembly elections see para 242 et seq ante.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(1)(b). As to verification of the ballot paper account at a Welsh Assembly election see further para 462 post.

8 Ibid Sch 5 para 50(1)(c).

9 Ibid Sch 5 para 50(1)(d).

10 As to the declaration of identity see para 411 ante.

11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(5). As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see further para 425 ante.

12 Ibid Sch 5 para 50(4). The proceedings described in Sch 5 para 50(1) (as amended) (see the text and notes 1–9 supra) may be undertaken at a different place (or at different places) than a place at which the votes given on ballot papers are counted (Sch 5 para 50(2)); but if the power is so exercised, during the period beginning with the conclusion of the proceedings described in Sch 5 para 50(1) (as amended) and ending with the commencement of proceedings described in Sch 5 para 50(4), the constituency returning officer must place the ballot papers and other documents relating to each election under his own seal and the seals of such of the counting agents as desire to affix their seals, and otherwise take proper precautions for the security of the papers and documents (Sch 5 para 50(3)).

For the purposes of elections other than ordinary elections: (1) the references in Sch 5 para 50(2), (3) to Sch 5 para 50(1) (as amended) must be construed as references to Sch 5 para 50(13) (see Sch 5 para 50(12)(b); and note 4 supra); (2) the reference to 'each election' in Sch 5 para 50(3) must be construed as 'the election' (Sch 5 para 50(12)(c)); (3) instead of Sch 5 para 50(4), the constituency returning officer must, subject to Sch 5 para 50(2), (3), count the votes given on the ballot papers after, in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box, and, in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box (Sch 5 para 50(12)(d), (14)); and (4) the reference in Sch 5 para 50(3) to Sch 5 para 50(4) must be construed as a reference to Sch 5 para 50(14) (see Sch 5 para 50(12)(d)).

13 Ibid Sch 5 para 50(7). As to tendered ballot papers see para 408 ante. As to adding votes on a scrutiny see para 842 post.

14 Ibid Sch 5 para 50(8). As to the number which must be printed on the back of every ballot paper see para 392 ante.

15 Ibid Sch 5 para 50(10).

16 For the meaning of 'candidate' generally see para 237 ante.

17 For the meaning of references to a group of party list candidates for these purposes see para 237 note 23 ante; and for the meaning of 'individual candidate' for these purposes see para 237 note 23 ante.

18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(10).

19 Ibid Sch 5 para 50(11)(a).

20 Ibid Sch 5 para 50(11)(b).
21 As to polls at elections or referendums which are taken together see para 16 et seq ante.

462. Verification of the ballot paper account at a Welsh Assembly election. The constituency returning officer[1], in order to verify the ballot paper account[2], must compare each ballot paper account with the number of ballot papers recorded by him[3], and the unused and spoilt ballot papers[4] in his possession and the tendered votes list[5] (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)[6].

He must draw up a statement as to the result of the verification, which any election agent appointed for the purposes of that election may copy[7]. Such a statement must be drawn up in respect of each place in cases where the arrangements for counting are conducted in more than one place which is different from the place at which the votes are counted[8].

1 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see para 18 note 2 ante.
2 As to the requirement for the constituency returning officer to make arrangements, in the presence of the election agents appointed for the purposes of each election, to verify each ballot paper account at a Welsh Assembly election see para 461 ante. As to the appointment of election agents at Welsh Assembly elections see para 242 et seq ante. As to the ballot paper account see para 410 ante.
3 As to the constituency returning officer's duty to record the number of ballot papers counted see para 461 ante.
4 As to spoilt ballot papers see para 409 ante.
5 As to the tendered votes list see para 408 ante.
6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 50(9).
7 Ibid Sch 5 para 50(9).
8 Ibid Sch 5 para 50(9). The text refers to cases where the power conferred by Sch 5 para 50(2) is exercised in relation to proceedings described in Sch 5 para 50(1) (as amended) in respect of more than one place (see para 461 ante).

463. Rejected ballot papers at a Welsh Assembly election. Any ballot paper at a Welsh Assembly election[1] which does not bear the official mark[2], or on which more than one vote is given[3], or on which anything is written or marked by which the voter can be identified except the printed number on the back[4], or which is unmarked or void for uncertainty[5], is void and not counted[6]. However, a ballot paper on which a vote is marked elsewhere than in the proper place[7], or otherwise than by means of a cross[8], or by more than one mark[9], is not for such reason void if an intention as to how the vote is to be given clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it[10]. At a Welsh Assembly regional election[11], a ballot paper on which a vote is marked for a particular party list candidate on the party list of a registered political party[12] must, if otherwise valid, be treated as a vote for that party, whether or not there is also a vote marked for that party[13].

The constituency returning officer[14] must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent[15] to his decision[16]. The constituency returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark[17]; (2) giving more than one vote[18]; (3) writing or mark by which the voter could be identified[19]; (4) unmarked or void for uncertainty[20].

1 For the meaning of 'Assembly election', in the context of Welsh Assembly elections, see para 3 note 1 ante.
2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 53(1)(a). As to the official mark see para 392 ante.

3 Ibid Sch 5 para 53(1)(b).
4 Ibid Sch 5 para 53(1)(c). As to the number which must be printed on the back of every ballot paper see para 392 ante.
5 Ibid Sch 5 para 53(1)(d).
6 Ibid Sch 5 para 53(1). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post.
7 Ibid Sch 5 para 53(2)(a).
8 Ibid Sch 5 para 53(2)(b).
9 Ibid Sch 5 para 53(2)(c).
10 Ibid Sch 5 para 53(2).
11 For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see para 3 note 1 ante.
12 For the meaning of 'registered political party', in the context of Welsh Assembly elections, see para 237 note 23 ante; and for the meaning of references to a group of party list candidates see para 237 note 23 ante.
13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 53(3).
14 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see para 18 note 2 ante.
15 As to the discharge of this function by the candidate or (where there is such an agent) his election agent see para 399 ante.
16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 53(4).
17 Ibid Sch 5 para 53(5)(a).
18 Ibid Sch 5 para 53(5)(b).
19 Ibid Sch 5 para 53(5)(c).
20 Ibid Sch 5 para 53(5)(d).

464. Conclusiveness of returning officer's decision as to ballot papers at a Welsh Assembly election. The decision of the constituency returning officer at a Welsh Assembly election[1] on any question arising in respect of a ballot paper is final, but is subject to review on an election petition[2].

1 For the meaning of 'Assembly election', in the context of Welsh Assembly elections, see para 3 note 1 ante; and for the meaning of 'constituency returning officer' see para 18 note 2 ante.
2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 54. As to the rejection of ballot papers at a Welsh Assembly election see para 463 ante; and as to petitions questioning such an election see para 762 et seq post.

465. Recount at a Welsh Assembly constituency or regional election. At a Welsh Assembly constituency election[1], a candidate[2] or his election agent[3] may, if present when the counting or any recount of the votes is completed[4], require the constituency returning officer[5] to have the votes recounted or again recounted but the constituency returning officer may refuse to do so if in his opinion the request is unreasonable[6].

At a Welsh Assembly regional election[7], and prior to certification of the results to the count[8]: (1) an individual candidate or his election agent[9]; (2) a party list candidate or an election agent for a group of party list candidates[10]; or (3) a counting agent for an individual candidate or a group of party list candidates (if duly appointed for the purpose)[11], may, if present when the counting or any recount of the votes is completed in a constituency[12], require the constituency returning officer to have the votes recounted or again recounted but the constituency returning officer may refuse to do so if in his opinion the request is unreasonable[13].

No step may be taken on the completion of the counting or any recount of votes until the candidates and election agents (or, alternatively in the case of a regional election, any counting agents duly appointed) who are present at its completion have been given a reasonable opportunity to exercise the right to request a recount[14].

1 For the meaning of 'Assembly constituency election', in the context of Welsh Assembly elections, see para 3 note 1 ante.

2 For the meaning of 'candidate' generally see para 237 ante.
3 As to the appointment of election agents at Welsh Assembly elections see para 242 et seq ante.
4 As to attendance at the counting of votes at a Welsh Assembly election see para 460 ante; and as to the count itself see para 461 ante.
5 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see para 18 note 2 ante.
6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 51(1).
7 For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see para 3 note 1 ante.
8 Ie under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 56(1) (see para 466 post).
9 Ibid Sch 5 para 52(1)(a). For the meaning of 'individual candidate', in the context of Welsh Assembly elections, see para 237 note 23 ante.
10 Ibid Sch 5 para 52(1)(b). For the meaning of references to a group of party list candidates see para 237 note 23 ante.
11 Ibid Sch 5 para 52(1)(c). As to the terms of appointment by which the right provided for in head (3) in the text may be exercised by a counting agent for an individual candidate or a group of party list candidates see para 399 note 5 ante.
12 For the meaning of 'Assembly constituency', in the context of Welsh Assembly elections, see para 3 note 1 ante.
13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 52(1).
14 Ibid Sch 5 paras 51(2), 52(2).

466. Procedure at conclusion of count at a Welsh Assembly constituency or regional election. At a Welsh Assembly constituency election[1], where, after the counting of the votes (including any recount) is completed[2], an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the constituency returning officer[3] must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote[4].

At the conclusion of the count of ballot papers in an Assembly constituency[5] at a Welsh Assembly regional election[6], the constituency returning officer must, in accordance with any directions given by the regional returning officer[7], certify: (1) the number of ballot papers counted by him and the total number of votes given for each individual candidate or registered political party[8]; and (2) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[9], and forthwith convey that information to the regional returning officer[10]. Where the regional returning officer has received the information required to be conveyed to him from each constituency returning officer for an Assembly constituency in the Assembly electoral region[11], he must certify the totals of the numbers referred to in heads (1) and (2) above for the electoral region[12]. A constituency returning officer, after he has conveyed to the regional returning officer the information required to be conveyed under heads (1) and (2) above, may give public notice of the information so conveyed (in such manner as he considers appropriate)[13] unless the regional returning officer directs that the constituency returning officer may only give such notice after the regional returning officer has given the notice that he is required to give in declaring the results at a regional election[14].

1 For the meaning of 'Assembly constituency election', in the context of Welsh Assembly elections, see para 3 note 1 ante.
2 As to the counting of votes at a Welsh Assembly election see para 461 et seq ante.
3 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see para 18 note 2 ante.
4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 55.

5 For the meaning of 'Assembly constituency', in the context of Welsh Assembly elections, see para 3 note 1 ante.
6 For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see para 3 note 1 ante.
7 For the meaning of 'regional returning officer' see para 18 note 2 ante.
8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 56(1)(a). For the meanings of 'individual candidate' and 'registered political party', in the context of a Welsh Assembly regional election, see para 237 note 23 ante.
9 Ibid Sch 5 para 56(1)(b). As to the statement of rejected ballot papers at a Welsh Assembly election see para 463 ante.
10 Ibid Sch 5 para 56(1).
11 For the meaning of 'Assembly electoral region', in the context of Welsh Assembly elections, see para 3 note 1 ante.
12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 56(2).
13 Ibid Sch 5 para 56(3).
14 Ibid Sch 5 para 56(4). The text refers to the public notice that the regional returning officer is required to give under Sch 5 para 59(1)(d) (see para 488 post).

467. Ascertainment of results at a contested Welsh Assembly regional election. At a contested Welsh Assembly regional election[1], the regional returning officer[2] must make arrangements for ascertaining the results of the poll[3] as soon as practicable after he has given the certification of the results of the count[4] and received the notification of the successful constituency candidate[5] from each constituency returning officer[6] for an Assembly constituency[7] in the Assembly electoral region[8]. At a contested regional election, the regional returning officer must also give notice in writing to the election agents[9], and to each constituency returning officer for an Assembly constituency in the Assembly electoral region for which the election is held, of the place at which he will begin to ascertain the results of the poll (together with such other information as he considers appropriate)[10].

No person other than: (1) the regional returning officer and his clerks[11]; (2) the candidates[12]; (3) the election agents[13]; or (4) the constituency returning officer for any Assembly constituency in the Assembly electoral region for which the election is held[14], may be present at the ascertainment of results, unless permitted by the regional returning officer to attend[15]. A person not entitled to attend at the proceedings may not be permitted to do so by the regional returning officer unless that officer is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents or thought it impracticable to do so[16]. The regional returning officer must give the election agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them[17].

The regional returning officer must provisionally ascertain the results of the poll and notify that provisional ascertainment to such of the following persons as are present, namely an individual candidate or his election agent[18], and the election agent for a group of party list candidates[19] or (in his absence) one of those candidates[20]. Where such notification has been given to any person, he may require the regional returning officer to provisionally ascertain those results again but the regional returning officer may refuse to do so if in his opinion the request is unreasonable[21]. Subject to these provisions[22], the regional returning officer must be treated as having ascertained the results of the poll following a provisional ascertainment if there is no further provisional ascertainment, after the first one[23] or, if there is more than one provisional ascertainment, after the final one[24]. If, in ascertaining the results of the poll the regional returning officer draws lots[25], he must proceed as if the individual candidate or registered political party on whom the lot falls had received an additional vote[26].

1 For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see para 3 note 1 ante.
2 For the meaning of 'regional returning officer' see para 18 note 2 ante.
3 Ie in accordance with the Government of Wales Act 2006 ss 8, 9 (see para 345 ante).
4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 58(1)(a). The text refers to the certification required by Sch 5 para 56(2) (see para 466 ante).
5 Ie the notification required by ibid Sch 5 para 57(3) (see para 487 post).
6 For the meaning of 'constituency returning officer', in the context of Welsh Assembly elections, see para 18 note 2 ante.
7 For the meaning of 'Assembly constituency', in the context of Welsh Assembly elections, see para 3 note 1 ante.
8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(1)(b). For the meaning of 'Assembly regional election', in the context of Welsh Assembly elections, see para 3 note 1 ante.
9 As to the appointment of election agents at Welsh Assembly elections see para 242 et seq ante.
10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(2).
11 Ibid Sch 5 para 58(3)(a).
12 Ibid Sch 5 para 58(3)(b).
13 Ibid Sch 5 para 58(3)(c).
14 Ibid Sch 5 para 58(3)(d).
15 Ibid Sch 5 para 58(3).
16 Ibid Sch 5 para 58(4).
17 Ibid Sch 5 para 58(5).
18 Ibid Sch 5 para 58(6)(a). For the meaning of 'individual candidate', in the context of a Welsh Assembly regional election, see para 237 note 23 ante.
19 For the meaning of references to a group of party list candidates see para 237 note 23 ante.
20 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(6)(b).
21 Ibid Sch 5 para 58(7). Where the regional returning officer has provisionally ascertained the results again under Sch 5 para 58(7), the provisions of Sch 5 para 58(6) (see the text and notes 18–20 supra) and Sch 5 para 58(7), (8) apply to the further provisional ascertainment: Sch 5 para 58(8).
22 Ie ibid Sch 5 para 58(6)–(8) (see the text and notes 18–21 supra).
23 Ibid Sch 5 para 58(10)(a).
24 Ibid Sch 5 para 58(10)(b).
25 Ie in the circumstances referred to in the Government of Wales Act 2006 s 9(9) (see para 345 ante).
26 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(9).

(E) Counting at European Parliamentary Elections

468. Attendance at verification of ballot paper accounts at a European parliamentary election. As soon as practicable after the close of the poll, the local returning officer at a European parliamentary election[1] must make arrangements for the verification of the ballot paper accounts[2] in the presence of the counting agents[3]; and he must give to the returning officer[4] and the counting agents notice in writing of the time and place at which he will begin such verification[5].

No person other than: (1) the returning officer, the local returning officer and his clerks[6]; (2) the candidates and their spouses or civil partners[7]; (3) the election agents[8]; (4) the counting agents[9]; and (5) representatives of the Electoral Commission[10], may attend the verification of the ballot paper accounts, unless permitted by the local returning officer to attend[11]. A person not entitled to attend at the verification of the ballot paper accounts may not be permitted to do so by the local returning officer unless he is satisfied that the efficient verification of the ballot paper accounts will not be impeded[12]. The local returning officer must make such arrangements as he thinks fit to ensure that every person attending at the verification of the ballot paper accounts (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance[13].

The local returning officer must give the counting agents all such reasonable facilities for observing the proceedings, and all such information with respect to them, as he can give them consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them[14].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the verification of the ballot paper accounts[15].

1 As to European parliamentary elections see para 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
2 As to the ballot paper account see para 410 ante.
3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 45(1). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.
4 As to returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
5 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 45(1).
6 Ibid Sch 1 para 45(2)(a).
7 Ibid Sch 1 para 45(2)(b)(i) (amended by SI 2005/2214).
8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 45(2)(c). As to the appointment of election agents at a European parliamentary election see para 246 et seq ante.
9 Ibid Sch 1 para 45(2)(d).
10 Ibid Sch 1 para 45(2)(e). As to the Electoral Commission see para 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see para 48 ante.
11 Ibid Sch 1 para 45(2).
12 Ibid Sch 1 para 45(2).
13 See paras 390 ante, 742–744 post.
14 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 45(3).
15 As to polls at elections or referendums which are taken together see para 16 et seq ante.

469. The verification of ballot paper accounts at a European parliamentary election. The local returning officer at a European parliamentary election[1] must, in the presence of the counting agents[2]: (1) open each ballot box and count and record the number of ballot papers in it and verify each ballot paper account[3]; and (2) count such of the postal ballot papers as have been duly returned and record the number counted[4]. A postal ballot paper must not be deemed to be duly returned unless it is returned in the manner prescribed[5] so as to reach the local returning officer or any polling station in the local counting area[6] in question before the close of the poll and the declaration of identity[7] duly signed and authenticated is also returned in that manner before that time[8].

While counting and recording the number of ballot papers, the local returning officer must keep the ballot papers with their faces downwards[9]; and he must not count any tendered ballot paper[10]. The local returning officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by him[11], the unused and spoilt ballot papers[12] in his possession and the tendered votes list[13] (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and he must draw up a statement as to the result of the verification, which any counting agent may copy[14]. The hours during which this procedure is to be carried out are to be determined by the local returning officer[15], who must take proper precautions for the security of the ballot papers and documents[16]. On completion of the procedure, he must: (a) place the ballot papers and other documents relating to the election in packets under his own seal and the seals of such counting agents as desire to affix their seals (unless he proceeds immediately to the counting of the votes)[17]; (b) otherwise take proper precautions for the security of the papers and documents[18]; and (c) inform the returning officer of the total number of ballot papers counted[19].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the verification of the ballot paper accounts[20].

1 As to European parliamentary elections see para 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 46(1). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.
3 Ibid Sch 1 para 46(1)(a). As to the ballot paper account see para 410 ante.
4 Ibid Sch 1 para 46(1)(b).
5 For these purposes, the manner in which a postal ballot paper (or declaration of identity) may be returned to a polling station is by hand (ibid reg 10, Sch 2 para 41(1)); and the manner in which such a paper (or declaration) may be returned to the returning officer is by post or by hand (Sch 2 para 41(2)). As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see further para 425 ante.
6 For the meaning of 'local counting area' see para 230 note 11 ante.
7 As to the declaration of identity see para 411 ante.
8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 46(2). See note 5 supra.
9 Ibid Sch 1 para 46(4).
10 Ibid Sch 1 para 46(3). As to tendered ballot papers see para 408 ante. As to adding votes on a scrutiny see para 842 post.
11 As to the local returning officer's duty to record the number of ballot papers counted see head (1) in the text.
12 As to spoilt ballot papers see para 409 ante.
13 As to the tendered votes list see para 408 ante.
14 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 46(5).
15 Ibid Sch 1 para 46(6).
16 Ibid Sch 1 para 46(7).
17 Ibid Sch 1 para 46(8)(a). The text refers to the provision for verification to take place at the same time as the counting of votes under Sch 1 para 48 (see para 471 post).
18 Ibid Sch 1 para 46(8)(b).
19 Ibid Sch 1 para 46(8)(c).
20 As to polls at elections or referendums which are taken together see para 16 et seq ante.

470. Attendance at counting of votes at a European parliamentary election. The local returning officer at a European parliamentary election[1] must make arrangements for counting the votes in the presence of the counting agents[2]: (1) in the case of a general election of members of the European Parliament ('MEPs')[3], before or after the material time[4] (and in either case so that the requirement to notify the returning officer of the local result[5] is satisfied as soon as practicable after the material time)[6]; and (2) in the case of a by-election[7], as soon as practicable after the close of the poll[8]. He must give to the counting agents and the returning officer notice in writing of the time and place at which he will begin to count the votes[9].

No person other than: (a) the returning officer, the local returning officer and his clerks[10]; (b) the candidates and their spouses or civil partners[11]; (c) the election agents[12]; (d) the counting agents[13]; and (e) representatives of the Electoral Commission[14], may be present at the counting of the votes, unless permitted by the local returning officer to attend[15]. A person not entitled to attend at the counting of the votes may not be permitted to do so by the local returning officer unless he is satisfied that the efficient counting of the votes will not be impeded and he has either consulted the election agents or thought it impracticable to do so[16]. The local returning officer must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance[17].

The local returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them[18]. In particular, where the votes are counted by sorting the ballot papers according to the registered party[19] or individual candidate[20] for

whom the vote is given and then counting the number of ballot papers for each registered party or individual candidate, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted[21].

Where the poll at an election is taken together with the poll at another election or referendum, special provision is made for the counting of votes at the European parliamentary election[22].

1 As to European parliamentary elections generally see para 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 47(1). As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.
3 As to European parliamentary general elections see para 224 ante.
4 For these purposes, the 'material time' means, in relation to a general election of MEPs, the close of the polling in the member state whose electors are the last to vote in the election: European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(1).
5 Ie under ibid Sch 1 para 52(1) (see para 475 post). As to returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
6 Ibid Sch 1 para 47(1)(a). If the amendments made to the Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 8.10.76, p 5) (the '1976 Act') (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1); and annexed to ECSC, EEC, and Euratom Decision 76/787 (OJ L278, 8.10.76, p 1)) (as to which see para 6 ante) have not entered into force by the close of the poll, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 45(1)(a) has effect as if the words 'before or' and 'in either case' were omitted: Sch 1 para 47(6).
7 As to European by-elections and the filling of vacancies see para 225 ante.
8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(1)(b).
9 Ibid Sch 1 para 47(1).
10 Ibid Sch 1 para 47(2)(a).
11 Ibid Sch 1 para 47(2)(b)(i) (amended by SI 2005/2214). For the meaning of 'candidate' generally see para 237 ante.
12 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(2)(c). As to the appointment of election agents at a European parliamentary election see para 246 et seq ante.
13 Ibid Sch 1 para 47(2)(d).
14 Ibid Sch 1 para 47(2)(e). As to the Electoral Commission see para 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see para 48 ante.
15 Ibid Sch 1 para 47(2).
16 Ibid Sch 1 para 47(3).
17 See paras 390 ante, 742–744 post.
18 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(4).
19 For the meaning of 'registered party', in the context of a European parliamentary election, see para 237 note 30 ante.
20 For the meaning of 'individual candidate', in the context of a European parliamentary election, see para 237 note 32 ante.
21 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(5).
22 As to polls at elections or referendums which are taken together see para 16 et seq ante.

471. The count at a European parliamentary election. The local returning officer at a European parliamentary election[1] must, where the ballot papers and other documents have been placed in packets following completion of the procedure to verify the ballot paper accounts[2], open the packets of ballot papers other than unused, spoilt[3] and tendered ballot papers[4] and, in any case, mix together all of the ballot papers other than unused, spoilt and tendered ballot papers[5].

While counting the votes, the local returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers[6]. He must not count any tendered ballot paper[7]. The local returning officer must so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the counting agents[8] agree, exclude the hours between seven in the

evening and nine on the following morning[9]. For the purposes of this exception the agreement of an individual candidate[10] or the election agent of a registered party[11] is as effective as the agreement of the counting agents of that counting agent or party[12]. During the time so excluded the local returning officer must: (1) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals[13]; and (2) otherwise take proper precautions for the security of the papers and documents[14].

In the case of a general election of members of the European Parliament ('MEPs')[15], if the counting of the votes has commenced before the close of the polling in the member state whose electors are the last to vote in the election[16], the local returning officer or his clerks must not disclose the number of votes given for each registered party and individual candidate to anyone other than the returning officer or his clerks until after that time, and the counting of the votes is deemed not to have been completed until after that time[17].

1 As to European parliamentary elections see para 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
2 Ie under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 46(8) (see para 469 ante).
3 As to spoilt ballot papers see para 409 ante.
4 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(1)(a). As to tendered ballot papers see para 408 ante.
5 Ibid Sch 1 para 48(1)(b).
6 Ibid Sch 1 para 48(3). As to the number which must be printed on the back of every ballot paper see para 392 ante.
7 Ibid Sch 1 para 48(2). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post.
8 As to the appointment of counting agents by a candidate, and as to the effect of their non-attendance, see para 399 ante.
9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(4).
10 For the meaning of 'individual candidate', in the context of a European parliamentary election, see para 237 note 32 ante.
11 For the meaning of 'registered party', in the context of a European parliamentary election, see para 237 note 30 ante. As to the appointment of election agents at a European parliamentary election see para 246 et seq ante.
12 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(4).
13 Ibid Sch 1 para 48(5)(a).
14 Ibid Sch 1 para 48(5)(b).
15 As to European parliamentary general elections see para 224 ante.
16 Ie the 'material time' for the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 47(1) (see para 470 note 4 ante).
17 Ibid Sch 1 para 48(6).

472. Rejected ballot papers at a European parliamentary election. Any ballot paper at a European parliamentary election[1] which does not bear the official mark[2], or on which votes are given for more than one registered party[3] or individual candidate[4] or for a registered party and an individual candidate[5], or on which anything is written or marked by which the voter can be identified except the printed number on the back[6], or which is unmarked or void for uncertainty[7], is void and not counted[8]. However, a ballot paper on which a vote is marked elsewhere than in the proper place[9], or otherwise than by means of a cross[10], or by more than one mark[11], is not for such reason deemed to be void if an intention that the vote is to be for one or other of the registered parties or individual candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it[12]. A ballot paper on which a vote is marked for a particular candidate on a party's list of candidates must, if otherwise valid, be treated as a vote for that party, whether or not there is also a vote for that party[13].

The local returning officer[14] must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent[15] to his decision[16]. The local returning officer must draw up a statement showing the number of ballot papers rejected under the several heads of: (1) want of official mark[17]; (2) voting for more than one registered party or candidate[18]; (3) writing or mark by which the voter could be identified[19]; (4) unmarked or void for uncertainty[20].

1 As to European parliamentary elections see para 224 et seq ante.
2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 50(1)(a). As to the official mark see para 392 ante.
3 For the meaning of 'registered party', in the context of a European parliamentary election, see para 237 note 30 ante.
4 For the meaning of 'individual candidate', in the context of a European parliamentary election, see para 237 note 32 ante.
5 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 50(1)(b).
6 Ibid Sch 1 para 50(1)(c). As to the number which must be printed on the back of every ballot paper see para 392 ante.
7 Ibid Sch 1 para 50(1)(d).
8 Ibid Sch 1 para 50(1). As to scrutiny, which may look at ballot papers and investigate how votes have been recorded, see para 837 et seq post.
9 Ibid Sch 1 para 50(2)(a).
10 Ibid Sch 1 para 50(2)(b).
11 Ibid Sch 1 para 50(2)(c).
12 Ibid Sch 1 para 50(2).
13 Ibid Sch 1 para 50(3).
14 As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
15 As to the discharge of this function by the candidate or (where there is such an agent) his election agent see para 399 ante.
16 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 50(4).
17 Ibid Sch 1 para 50(5)(a).
18 Ibid Sch 1 para 50(5)(b).
19 Ibid Sch 1 para 50(5)(c).
20 Ibid Sch 1 para 50(5)(d).

473. Conclusiveness of returning officer's decision as to ballot papers at a European parliamentary election. The decision of the local returning officer at a European parliamentary election[1] on any question arising in respect of a ballot paper is final, but is subject to review on an election petition[2].

1 As to European parliamentary elections see para 224 et seq ante; and as to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 51. As to the rejection of ballot papers at a European parliamentary election see para 472 ante; and as to petitions questioning such an election see para 765 et seq post.

474. Recount at a European parliamentary election. A candidate[1], the election agent of a registered party[2] or individual candidate[3] or a duly authorised counting agent[4] may, if present when the counting of the votes at a European parliamentary election[5] is completed (or, if later, when it is deemed to be completed[6]) or any recount of the votes is completed, require the local returning officer[7] to have the votes recounted or again recounted but the local returning officer may refuse to do so if in his opinion the request is unreasonable[8].

No step may be taken on the completion of the counting (or, if later, its deemed completion) or any recount of votes until any persons who are present at its completion (or, if later, its deemed completion) have been given a reasonable opportunity to exercise the right to request a recount[9].

1 For the meaning of 'candidate' generally see para 237 ante.
2 For the meaning of 'registered party', in the context of a European parliamentary election, see para 237 note 30 ante. As to the appointment of election agents at a European parliamentary election see para 246 et seq ante.
3 For the meaning of 'individual candidate', in the context of a European parliamentary election, see para 237 note 32 ante.
4 Ie a counting agent authorised under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 31(2) by the terms of his appointment to require a recount at that count: see para 399 note 5 ante.
5 As to European parliamentary elections see para 224 et seq ante; and as to the count at such elections see para 471 ante.
6 As to the deemed completion of the counting of the votes in cases where the count has commenced before the close of the polling in the member state whose electors are the last to vote in the election see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(6); and para 471 ante.
7 As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 49(1).
9 Ibid Sch 1 para 49(2).

475. Procedure at conclusion of count at a European parliamentary election. As soon as practicable after the completion of the count at a European parliamentary election[1] (or, if later, its deemed completion[2]), the local returning officer[3] must draw up a statement showing the number of votes given for each registered party[4] and individual candidate[5], excluding any votes given on ballot papers which have been rejected[6]. The local returning officer must forthwith inform the returning officer[7] of the contents of that statement[8].

The local returning officer must give public notice of the statement so prepared showing the number of votes given for each registered party and individual candidate and the statement showing the number of ballot papers rejected under the various heads[9] as soon as practicable after the returning officer has agreed that he should do so[10].

1 As to European parliamentary elections see para 224 et seq ante; and as to the count at such elections see para 471 ante.
2 As to the deemed completion of the counting of the votes in cases where the count has commenced before the close of the polling in the member state whose electors are the last to vote in the election see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 48(6); and para 471 ante.
3 As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
4 For the meaning of 'registered party', in the context of a European parliamentary election, see para 237 note 30 ante.
5 For the meaning of 'individual candidate', in the context of a European parliamentary election, see para 237 note 32 ante.
6 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 52(1). The text refers to ballot papers rejected under Sch 1 para 50 (see para 472 ante).
7 As to returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 52(2).
9 Ie the statement prepared under ibid Sch 1 para 50 (see para 472 ante).
10 Ibid Sch 1 para 52(3).

476. The calculation and the allocation of seats at a European parliamentary election. The returning officer at a European parliamentary election[1] must make arrangements for making the calculation and allocation of seats[2]. No person other than: (1) the returning officer and his clerks[3]; (2) the election agent of each registered party[4] standing at the election or a person acting on his behalf[5]; (3) each candidate on the list of such a party[6] and the candidate's spouse or civil partner[7]; (4) the election agent of each individual candidate[8] or a person acting on his behalf[9]; (5) each

individual candidate and the candidate's spouse or civil partner[10]; and (6) representatives of the Electoral Commission[11], may be present at that calculation and allocation unless permitted by the returning officer to attend[12]. The returning officer must give to the election agent of each registered party standing at the election[13], and each individual candidate[14], notice in writing of the place at which he will conduct the calculation and allocation of seats[15] and of the time after which he will begin those proceedings[16].

As soon as practicable after the returning officer has been informed of the contents of the statements showing the number of votes given for each registered party and individual candidate, prepared[17] by local returning officers[18] in his region[19], he must calculate the total number of votes given to each registered party and individual candidate in all of the local counting areas[20] wholly or partly contained within the electoral region, as shown in those statements[21].

The returning officer must then allocate the seats in accordance with the rules[22]. The returning officer must give the persons entitled to be present reasonable facilities for satisfying themselves that the results of the calculation and allocation which he is required to make are accurate[23]. In particular, a person entitled to be present may require the returning officer to make a calculation or allocation again but the returning officer may refuse to do so if in his opinion the request is unreasonable[24]. At a by-election at which there is only one vacancy[25], the rules governing the allocation of seats[26] have effect as though they provided that the party or individual candidate to whom the majority of the votes have been given is to be declared to be elected[27].

1 As to European parliamentary elections see para 224 et seq ante; and as to returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 53(1). The text refers to the calculation and allocation of seats required by Sch 1 para 54 (see the text and notes 17–27 infra).
3 Ibid Sch 1 para 53(2)(a).
4 For the meaning of 'registered party', in the context of a European parliamentary election, see para 237 note 30 ante. As to the appointment of election agents at a European parliamentary election see para 246 et seq ante.
5 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 53(2)(b).
6 For the meaning of 'list' in this context see para 237 note 30 ante.
7 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 53(2)(c)(i) (amended by SI 2005/2114).
8 For the meaning of 'individual candidate', in the context of a European parliamentary election, see para 237 note 32 ante.
9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 53(2)(d).
10 Ibid Sch 1 para 53(2)(e)(i) (amended by SI 2005/2114).
11 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 53(2)(f). As to the Electoral Commission see para 31 et seq ante; and as to authorised representatives of the Electoral Commission attending electoral proceedings see para 48 ante.
12 Ibid Sch 1 para 53(2).
13 Ibid Sch 1 para 53(3)(a).
14 Ibid Sch 1 para 53(3)(b).
15 Ie the proceedings under ibid Sch 1 para 54 (see the text and notes 17–27 infra).
16 Ibid Sch 1 para 53(3).
17 Ie under ibid Sch 1 para 52(1) (see para 475 ante).
18 As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
19 As to electoral regions constituted for the purposes of European parliamentary elections see para 76 ante.
20 For the meaning of 'local counting area' see para 230 note 11 ante.
21 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 54(1).
22 Ibid Sch 1 para 54(2). The text refers to the allocation of seats in accordance with the European Parliamentary Elections Act 2002 s 2(5)–(9) (see para 345 ante), subject to the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 54(4) (by-elections with only one vacancy: see the text and notes 25–27 infra) and Sch 1 para 55 (equality of seats: see para 345 ante).
23 Ibid Sch 1 para 54(3).

24 Ibid Sch 1 para 54(3).
25 As to European by-elections and the filling of vacancies see para 225 ante.
26 Ie the European Parliamentary Elections Act 2002 s 2(5)–(9) (see para 345 ante).
27 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 54(4).

(vii) Uncontested Elections

477. The procedure at uncontested elections. At a parliamentary[1] or Welsh Assembly constituency election[2], if the statement of persons nominated[3] shows only one person standing nominated, that person is declared to be elected in accordance with the appropriate rules[4].

If, after any withdrawals under the appropriate rules[5] at a local government election[6], the number of persons remaining validly nominated for the electoral area[7] or London Assembly constituency[8] does not exceed the number of councillors or London Assembly constituency members to be elected, such person or persons must be declared to be elected in accordance with the appropriate rules[9]. If the number of persons remaining validly nominated at an election for the return of London members of the London Assembly, after any withdrawals under the appropriate rules[10], does not exceed the number of seats available for allocation, the seats are allocated in accordance with the appropriate rules[11].

If the number of candidates remaining at a poll consequent on a parish meeting on a question involving appointment to office, after any withdrawals, does not exceed the number of persons to be elected, such candidates are deemed to be elected and the returning officer must as soon as possible give public notice of the abandonment of the poll[12] which must: (1) refer to the meeting at which the poll was demanded and the offices in respect which the poll was demanded[13]; (2) set out the full names, home addresses and (if required) descriptions of the candidates[14]; (3) indicate which of those candidates has withdrawn[15]; (4) state that no poll will be taken[16]; and (5) list the candidates deemed to be elected[17]. The returning officer must send a copy of that notice to each of the candidates and the chairman of the meeting at which the poll was demanded[18].

If, after any withdrawals under the appropriate rules at a local authority or London mayoral election[19], only one candidate remains validly nominated, that person is declared to be elected in accordance with the appropriate rules[20].

At a Welsh Assembly regional election[21], if the statement of persons standing nominated shows more persons standing nominated than the number of seats for that Assembly electoral region[22], and where each person is included on the same party list[23], those persons are declared to be elected in accordance with the appropriate rules[24] in the order that they are included on that list (starting with the highest) up to the number of seats for the Assembly electoral region[25].

If the statement of persons nominated at a European parliamentary election[26] shows a number of candidates (whether on a registered party's list[27] or individual candidates[28]) which is the same as, or less than, the number of seats to be filled, those candidates are be declared to be elected in accordance with the appropriate rules[29].

1 For the meaning of 'parliamentary election' see para 9 ante. As to parliamentary elections see para 196 et seq ante.
2 For the meaning of 'constituency election' in the context of Welsh Assembly elections, and for the meaning of 'Assembly election', see para 3 note 1 ante.
3 As to the statement of persons nominated at any election see para 272 ante.
4 Representation of the People Act 1983 s 23(1), Sch 1 r 17(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 20(b). The text refers to the rules set out, in relation to a parliamentary election, in the Representation of the People Act 1983 Sch 1 Pt IV (rr 50–53) (as amended) (see paras 478–480 post) and, in relation to a Welsh Assembly

election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 Pt IV (paras 57–60) (see paras 487–488, 490 post). As to the appropriate rules for use in parliamentary and Welsh Assembly constituency elections see para 388 ante. As to the withdrawal of candidates at any election see para 269 ante. As to contested elections see para 344 et seq ante.

5 As to the appropriate rules for use in local government elections see para 388 et seq ante.

6 Ie excluding an election for the return of London members of the London Assembly (as to which see the text and notes 10–11 infra) or an election for the Mayor of London (as to which see the text and notes 19–20 infra). For the meanings of 'local government election' and 'London member' see para 10 ante. As to elections for the return of London members of the London Assembly and the Mayor of London see para 206 et seq ante.

7 For the meaning of 'electoral area' see para 10 ante.

8 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 note 6 ante.

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 13(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 14(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 14(2). The rules referred to in the text are: in relation to a local government election for a principal area, the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 Pt 4 (r 50); in relation to a local government election for a parish and community council, the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 Pt 4 (r 50) (see para 481 post); and, in relation to an election for the return of constituency members of the London Assembly, the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 Pt V (rr 45–46) (see para 484 et seq post). At an election for the return of constituency members of the London Assembly, a contested election must be held if the number of persons remaining validly nominated for the constituency exceeds one: Sch 1 r 13(1). For the meaning of 'constituency member' in this context see para 10 note 6 ante. As to the election of councillors for local government principal areas see para 204 et seq ante; as to ordinary elections of constituency members of the London Assembly see para 206 et seq ante; and as to the election of councillors for parish or community councils see para 207 et seq ante.

10 As to the appropriate rules for use in elections for the return of London members of the London Assembly see para 388 ante.

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 14. As to the allocation of seats at a London members election see para 449 ante; and see further para 483 et seq post.

12 Parish and Community Meetings (Polls) Rules 1987, r 5, Schedule r 3(2).

13 Ibid Schedule r 3(2)(a).

14 Ibid Schedule r 3(2)(b).

15 Ibid Schedule r 3(2)(c).

16 Ibid Schedule r 3(2)(d).

17 Ibid Schedule r 3(2)(e).

18 Ibid Schedule r 3(2).

19 Ie, in relation to a local authority mayoral election, the local authority mayoral election rules and, in relation to an election for the Mayor of London, the London mayoral election rules (see para 388 ante).

20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 14(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 14(c). The rules referred to in the text are: in relation to a London mayoral election, those contained in the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 Pt VI (rr 50–51); and, in relation to a local authority mayoral election, those contained in the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 Pt VI (regs 48–49) (see paras 485–486 post). As to elections for a local authority elected mayor see para 205 et seq ante.

21 For the meaning of 'regional election' in relation to a Welsh Assembly election see para 3 note 1 ante.

22 For the meaning of 'Assembly electoral region' in relation to a Welsh Assembly election see para 3 note 1 ante.

23 For the meaning of 'party list' in relation to a Welsh Assembly regional election see para 237 note 23 ante.

24 As to the appropriate rules for use in Welsh Assembly regional elections see para 388 ante.

25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 21(1)(b). The text refers to the rules contained in Sch 5 Pt IV (see paras 487–488, 490 post). If the statement of persons standing nominated shows the same number of persons standing nominated as, or fewer such persons than, the number of seats for the Assembly electoral region, those persons standing nominated are declared to be elected in accordance with the relevant rules: Sch 5 para 21(2). However, no person at an ordinary election may be declared to be elected in the circumstances described in Sch 5 para 21(1)(b) or Sch 5 para 21(2) until the regional returning officer: (1) has received from each constituency returning officer for an Assembly constituency in the Assembly electoral region the notification required by Sch 5 para 57(3) (declaration of result at a constituency election: see para 487 post), unless in any case a poll at a constituency election has been postponed under Sch 5 para 65(1) (see

para 510 post); and (2) has disregarded any party list candidate who has been returned as a member for an Assembly constituency in the Assembly electoral region: Sch 5 para 21(4). Where notice of the poll at a regional election is countermanded or the poll is abandoned under Sch 5 para 65(5) (election uncontested through death of candidate: see para 510 post), Sch 5 para 21(1)(b) or Sch 5 para 21(2) also apply: Sch 5 para 21(3). For the meaning of 'Assembly constituency' in relation to a Welsh Assembly election see para 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see para 18 note 2 ante.

26 As to European parliamentary elections see para 224 et seq ante.

27 For the meanings of 'registered party' and 'list' in the case of a European parliamentary election see para 237 note 30 ante.

28 For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

29 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 19(2). The text refers to the rules contained in Sch 1 Pt 4 (paras 56–57) (see paras 491–492 post). As to the appropriate rules for use in European parliamentary elections see para 388 ante.

(viii) Final Proceedings

A. PARLIAMENTARY ELECTIONS

478. Declaration of result at parliamentary election. In a contested parliamentary election[1], when the result of the poll has been ascertained[2], the returning officer[3] must forthwith: (1) declare to be elected the candidate to whom the majority of votes has been given[4]; (2) return his name to the Clerk of the Crown[5]; and (3) give public notice[6] of his name and of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[7].

In an uncontested parliamentary election[8], the statement of persons nominated[9], in addition to showing the person standing nominated, must also declare that person to be elected and the returning officer must forthwith return his name to the Clerk of the Crown[10].

1 For the meaning of 'parliamentary election' see para 9 ante. As to parliamentary elections see para 196 et seq ante.

2 As to the method of election at a parliamentary election see para 389 et seq ante.

3 As to returning officers for parliamentary elections see para 355 et seq ante.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 50(1)(a). The returning officer is not a judge of the qualifications of the successful candidate: *Pritchard v Bangor Corpn* (1888) 13 App Cas 241, HL.

5 Representation of the People Act 1983 Sch 1 r 50(1)(b). 'Clerk of the Crown' means Clerk of the Crown in Chancery: s 202(1). As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.

6 As to the giving of public notice by returning officers for parliamentary elections see para 355 ante.

7 Representation of the People Act 1983 Sch 1 r 50(1)(c). As to the statement of rejected ballot papers see para 438 ante.

8 As to the procedure at uncontested elections see para 477 ante.

9 As to the statement of persons nominated see para 272 ante.

10 Representation of the People Act 1983 Sch 1 r 50(2). See also *R v Soothill, ex p Ashdown* (1955) Times, 21 April (cited in para 270 note 32 ante).

479. Return to the writ and record of returns in parliamentary elections. The returning officer at a parliamentary election[1] must return the name of the member elected at a parliamentary election by endorsing on the writ a certificate in the proper form[2]. Any rule of law or enactment as to the effect of, or manner of dealing with, the return of a member to serve in Parliament applies to the certificate[3].

On receiving a receipt, the returning officer may deliver the writ with the certificate endorsed on it to an official designated for that purpose by a universal postal service provider who is providing a universal postal service[4] for the area in which the election is

being held or to his deputy, provided that the official or deputy is at that time within the area concerned[5]. The designated official or his deputy must send the writ so endorsed by the first post, free of charge, under cover to the Clerk of the Crown[6] with the words 'Election Writ and Return' endorsed on it[7].

From the certificate on each writ returned to him, the Clerk of the Crown must enter the name of the member returned in a book to be kept by him at the Crown Office[8] (known as the 'return book'). The return is not completed until it reaches his hands so that he can act upon it; he transmits what is in substance a copy of the return book to the Clerk of the House of Commons[9]. The Clerk of the Crown must also enter in the return book any alteration or amendment made by him in the certificate endorsed on any writ[10]. The return book kept by the Clerk of the Crown is open to public inspection at reasonable times and any person may, on payment of a reasonable fee, take copies from the book[11].

1 For the meaning of 'parliamentary election' see para 9 ante. As to parliamentary elections see para 196 et seq ante; and as to returning officers for parliamentary elections see para 355 et seq ante.
2 Representation of the People Act 1983 s 23(1), Sch 1 r 51(1). As to the proper form of the certificate referred to in the text see Sch 1 Appendix of Forms (Certificate endorsed on writ). Where the returning officer lost the writ and was therefore unable to endorse on the writ the certificate in the prescribed form, the returning officer sent to the Speaker of the House of Commons a statutory declaration as to the person elected and the House of Commons then instructed the Clerk of the Crown to receive the names: see *Portsmouth Election Case* (1910) 21 HC Deb 22. For cases where a special return was made see *Hackney Case* (1874) 2 O'M & H 77; *Knaresborough Case* (1805) 2 Peck 382.
3 Representation of the People Act 1983 Sch 1 r 51(2). As to the effect of a defective return see *Pontefract Case* (1623) Glanv El Cas 133.
4 For these purposes, 'universal postal service provider' means a universal service provider within the meaning of the Postal Services Act 2000 (see s 4(3), (4); and POST OFFICE): Representation of the People Act 1983 s 202(1) (definition added by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, art 3(1), Sch 1 para 57(1), (4)).
5 Representation of the People Act 1983 Sch 1 r 51(3) (amended by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, Sch 1 para 57(1), (5)(a)).
6 'Clerk of the Crown' means Clerk of the Crown in Chancery: Representation of the People Act 1983 s 202(1). As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.
7 Ibid Sch 1 r 51(4) (amended by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, Sch 1 para 57(1), (5)(b)).
8 Representation of the People Act 1983 Sch 1 r 52(1).
9 *Poole Case, Hurdle v Waring* (1874) LR 9 CP 435.
10 Representation of the People Act 1983 Sch 1 r 52(2).
11 Ibid Sch 1 r 52(3).

480. Return or forfeiture of candidate's deposit at parliamentary election. A candidate's deposit at a parliamentary election[1] is forfeited to the Crown if a poll is taken and, after the counting of the votes by the returning officer[2] (including any recount) is completed, the candidate is found not to have polled more than one-twentieth of the total number of votes polled by all the candidates[3].

Otherwise, the deposit must be returned, not later than the next day[4] after that on which the result of the election is declared, to the person making it or to his personal representatives[5]. For these purposes, a deposit is to be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day[6]. However, if the candidate is not shown as standing nominated in the statement of persons nominated or if the poll is countermanded or abandoned by reason of his death[7], the deposit must be returned[8] as soon as practicable after the publication of the statement or after his death, as the case may be[9]. If, at a general election, a candidate is shown as standing nominated in more than one constituency[10] in the statements of persons nominated, not more than one of the deposits is to be returned and, if necessary, the Treasury must direct which it is to be[11].

1 For the meaning of 'parliamentary election' see para 9 ante. As to parliamentary elections see para 196 et seq ante; and as to deposits made in relation to such an election see para 266 ante.
2 As to the returning officers appointed for parliamentary elections see para 355 et seq ante; and as to the count at such elections see para 432 et seq ante.
3 Representation of the People Act 1983 s 23(1), Sch 1 r 53(1), (4) (Sch 1 r 53(4) amended by the Representation of the People Act 1985 s 13(b)). Votes rejected by the returning officer are not included in the number of votes polled: see para 478 ante.
3 For the purposes of this provision, a day is to be disregarded if it would be disregarded under the Representation of the People Act 1983 Sch 1 r 2 (as amended) (see para 203 note 1 ante) in computing any period of time for the purposes of the timetable for an election of the kind in question: Sch 1 r 53(2A)(a) (Sch 1 r 53(2A) added by the Representation of the People Act 1985 s 24, Sch 4 para 83(b)). Accordingly, as to the computation of time for these purposes see para 203 note 1 ante. Bank holidays in Scotland or Northern Ireland which are not also bank holidays in England and Wales are disregarded for the purposes of parliamentary general elections but not for by-elections: see the Representation of the People Act 1983 Sch 1 r 53(2A)(a) (as added).
5 Ibid Sch 1 r 53(1), (2) (Sch 1 r 53(2) amended by the Representation of the People Act 1985 Sch 4 para 83(a)).
6 Representation of the People Act 1983 Sch 1 r 53(2A)(b) (as added: see note 3 supra).
7 As to countermand on the death of the candidate at a parliamentary election see para 509 post.
8 Ie, by virtue of the Representation of the People Act 1983 Sch 1 r 53(1) (see the text and note 5 supra), to the person making the deposit or his personal representatives, as the case may be.
9 Ibid Sch 1 r 53(3).
10 For the meaning of 'constituency' in relation to a parliamentary election see para 9 ante.
11 Representation of the People Act 1983 Sch 1 r 53(5).

B. LOCAL GOVERNMENT ELECTIONS

481. Declaration of result at local government election. In a contested local government election[1], when the result of the poll has been ascertained, the returning officer[2] must forthwith: (1) declare to be elected the candidate or candidates to whom more votes have been given than to the other candidates, up to the number of councillors (or constituency members of the London Assembly, as the case may be) to be elected[3]; (2) give notice of the name of each such candidate to the proper officer of the council for which the election is held[4]; and (3) give public notice[5] of the name of each candidate elected and of the total number of votes given for each candidate, whether elected or not, together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[6].

In an uncontested election[7], the returning officer must, as soon as practicable after the latest time for the delivery of notices of withdrawals of candidature[8]: (a) declare to be elected the person (or persons, as the case may be) remaining validly nominated[9]; (b) give notice of the name of each such person to the proper officer of the council for which the election is held[10]; and (c) give public notice of the name of each such person[11].

At any election for the return of constituency members of the London Assembly, each constituency returning officer must inform the proper officer of the London Authority of the result of the election for the constituency[12].

1 Ie excluding elections for the return of London members of the London Assembly (as to which see para 483 post) and elections for the Mayor of London (as to which see para 485 post). For the meaning of 'local government election' see para 10 ante. As to contested local government elections see para 368 et seq ante.
2 As to returning officers at local government elections see para 359 et seq ante. In the case of an election for the return of constituency members of the London Assembly, the appropriate returning officer is the constituency returning officer (for the meaning of which see para 218 note 8 ante).
3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 45(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 50(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 50(1)(a).

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(1)(b)(i). For the meaning of 'proper officer' see para 155 note 2 ante. At a parish or community council election, notice must be given also to the proper officer of the council of the district in which the parish is situate or to the proper officer of the county or county borough in which the community is situate: Sch 2 r 50(1)(b)(ii). In the case of an election for the return of constituency members of the London Assembly, the candidate's name and, if he was the candidate of a party, the name of that party, must be returned to the Greater London returning officer (for the meaning of which see para 218 note 7 ante): Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(1)(b). For this purpose, 'candidate of a party' means a person who was the subject of an authorisation under Sch 1 r 6(4) (see para 263 ante) and whose particulars on the ballot paper included the party's registered emblem (if any): Sch 1 r 45(4).

5 As to the giving of public notice by a returning officer at a local government election see para 359 ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(1)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(1)(c). As to the statement of rejected ballot papers see para 438 ante.

7 As to the procedure at uncontested elections see para 477 ante.

8 As to the time for the delivery of notices of withdrawals of candidature see para 269 ante.

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(2)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(2)(a). See *R v Soothill, ex p Ashdown* (1955) Times, 21 April (cited in para 270 note 32 ante).

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(2)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(2)(b)(i). At a parish or community council election, notice must be given also to the proper officer of the council of the district in which the parish is situate or to the proper officer of the county or county borough in which the community is situate: Sch 2 r 50(2)(b)(ii). In the case of an election for the return of constituency members of the London Assembly, the constituency returning officer must give notice to the Greater London returning officer of the name of the person remaining validly nominated and, if he was a candidate of a party, of the name of the party: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(2)(b).

11 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 45(2)(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 50(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 50(2)(c).

12 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 45(3), Sch 4 r 13(1). For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 note 6 ante. For the meaning of 'proper officer' in this context see LONDON GOVERNMENT vol 29(2) (Reissue) para 83.

482. Declaration of result at a poll consequent on a parish meeting. At a poll consequent on a parish meeting taken on a question of appointment to any office, when the result of the poll has been ascertained, the returning officer[1] must forthwith: (1) declare to be elected the candidate or candidates to whom more votes have been given than to the other candidates up to the number of appointments to be made[2]; (2) give notice of each person elected to the chairman of the meeting at which the poll was demanded[3]; (3) give public notice[4] of the name of each candidate elected and of the total number of votes given for each candidate whether elected or not, together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[5].

1 As to the returning officer at a poll consequent on parish meeting see para 361 ante.

2 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 32(a)(i). As to the procedure at uncontested elections see para 477 ante.

3 Ibid Schedule r 32(a)(ii).

4 As to public notice required to be given by a returning officer for the purposes of a poll consequent on a parish meeting see para 361 ante.

5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 32(a)(iii). As to the statement of rejected ballot papers at a poll consequent on a parish meeting see para 438 ante.

483. Declaration of result at election of London Authority London members. The Greater London returning officer[1] must declare the allocation of the seats for London members[2] and, where seats are allocated to a registered party[3], the names of the persons on the party list[4] who[5] are to fill those seats[6].

The Greater London returning officer must give public notice of: (1) the registered parties to which seats for London members have been allocated and the names of the list candidates by whom those seats are to be filled[7]; (2) the names of the successful individual candidates[8]; (3) the total number of London votes[9] given for each registered party and each individual candidate[10]; (4) the total number of candidates of registered parties returned as constituency members[11]; (5) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[12]; (6) the name of every person included on a party list who has been omitted from or[13] is to be treated as ceasing to be on that list together with the reason for the omission or cessation, as the case may be[14]; and (7) without prejudice to head (6) above, where, at a contested election, proof is given before the result of the election is declared that one of the persons named as an individual candidate in the ballot papers or whose name appears on a party list has died[15], the name of the deceased candidate[16].

The Greater London returning officer must inform the proper officer of the London Authority[17] of the result of ordinary elections for the return of the London members[18].

1 For the meaning of 'Greater London returning officer' see para 218 note 7 ante.
2 As to the allocation of seats at a London members election see para 449 ante. As to the declaration of the result at a London mayoral election see para 485 post.
3 For the meaning of 'registered political party' in this context see para 233 note 16 ante.
4 As to the submission of lists of candidates to be London members of the London Assembly see para 233 ante; and as to references to party lists in elections for the return of such members see para 262 note 24 ante.
5 Ie in accordance with the Greater London Authority Act 1999 s 4, Sch 2 para 8(5) (see para 345 ante).
6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 48(1).
7 Ibid Sch 2 r 48(2)(a).
8 Ibid Sch 2 r 48(2)(b). As to individual candidates to be London members of the London Assembly see para 233 ante.
9 As to the counting of London votes see para 442 et seq ante.
10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 48(2)(c).
11 Ibid Sch 2 r 48(2)(d).
12 Ibid Sch 2 r 48(2)(e). As to the statement of rejected ballot papers at elections of London Assembly members see para 444 ante.
13 Ie pursuant to the Greater London Authority Act 1999 Sch 2 para 8(10) (person included on a list submitted by a registered political party returned as the Mayor of London or as a London Assembly member: see para 345 ante).
14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 48(2)(f).
15 Ie where ibid Sch 2 r 47(2) applies (see para 449 ante).
16 Ibid Sch 2 r 48(2)(g).
17 For the meaning of 'proper officer' in this context see LONDON GOVERNMENT vol 29(2) (Reissue) para 83.
18 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 4 r 13(2).

484. Return or forfeiture of candidate's deposit at London Authority election of London or constituency members. The deposit required to be made by a candidate at an election for the return of constituency members or London members of the London Assembly[1] is forfeited to the Greater London Authority[2] if a poll is taken and: (1) in the case of a constituency members election, after the counting of the votes by the constituency returning officer[3] (including any recount) is completed[4], the candidate is found not to have polled more than one-twentieth of the total number of votes polled by all the candidates[5]; or (2) in the case of a London

members election, after the declaration of the result[6], the candidate or registered party[7] is found not to have polled more than one-fortieth of the total number of votes polled by all the candidates and registered parties[8].

Otherwise, the deposit must be returned, not later than the next day[9] after that on which the result of the election is declared, to the person making it or to his personal representatives[10]. For these purposes, a deposit is to be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day[11]. However, if the candidate is not shown as standing nominated in the statement of persons nominated[12] or if, in the case of a constituency members election, the poll is countermanded or abandoned by reason of his death[13] or if, in the case of a London members election, proof of his death has been given to the Greater London returning officer[14] before the allocation of seats[15], the deposit must be returned[16] as soon as practicable after the publication of the statement or after his death, as the case may be[17].

1 As to elections for the return of elected members of the London Assembly see para 206 et seq ante; and as to deposits made in relation to such an election see para 266 ante. As to the return or forfeiture of candidate's deposits made for the purpose of elections for the return of an elected Mayor of London see para 486 post.
2 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq.
3 For the meaning of 'constituency returning officer' in the context of an election for the return of members of the London Assembly see para 218 note 8 ante.
4 As to the counting of the votes at a London Authority election of London constituency members see para 443 et seq ante.
5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), Sch 1 r 46(1), (5).
6 As to the declaration referred to in the text see para 483 ante.
7 For the meaning of 'registered political party' in this context see para 233 note 16 ante.
8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 49(1), (5).
9 For these purposes, a day is to be disregarded if it would be disregarded under ibid Sch 1 r 3 or Sch 2 r 3 (see para 218 note 6 ante) in computing any period of time for the purposes of the timetable for an election of the kind in question: Sch 1 r 46(3)(a), Sch 2 r 49(3)(a). Accordingly, as to the computation of time for these purposes see para 218 note 6 ante.
10 Ibid Sch 1 r 46(1), (2), Sch 2 r 49(1), (2).
11 Ibid Sch 1 r 46(3)(b), Sch 2 r 49(3)(b).
12 As to the statement of persons nominated at any election see para 272 ante.
13 As to countermand on the death of the candidate at a London Authority election of London or constituency members see para 510 post.
14 For the meaning of 'Greater London returning officer' see para 218 note 7 ante.
15 As to the allocation of seats at a London members election see para 449 ante.
16 Ie, by virtue of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 46(1), Sch 2 r 49(1) (see the text and note 10 supra), either to the person making it or to his personal representatives.
17 Ibid Sch 1 r 46(4), Sch 2 r 49(4).

C. MAYORAL ELECTIONS

485. Declaration of result at local authority or London mayoral election. The returning officer at an election for the return of an elected local authority mayor or for the return of London Mayor[1] must declare the elected mayor to be the candidate who, either under the simple majority system[2] or, where are three or more candidates, under the supplementary vote system[3], is to be returned as the elected mayor at that election[4]. The returning officer must give public notice of[5]: (1) the name of the successful candidate[6]; (2) the total number of first preference votes given for each candidate[7]; (3) the number of rejected ballot papers at the election under each head shown in the statement of rejected ballot papers[8]; and (4) if second preference votes were counted[9]: (a) the total number of second preference votes given for each of the candidates remaining in the contest after the count of the first preference votes[10]; and (b) in the case of a local authority mayoral election only, the number of ballot papers

rejected for the purposes of the count of second preference votes on the ground that they were unmarked or void for uncertainty as to the second preference vote[11].

In an uncontested election[12], the returning officer must, as soon as practicable after the latest time for the delivery of notices of withdrawals of candidature[13], declare to be elected the person remaining validly nominated[14] and give public notice of the name of the person declared to be elected[15].

At an election for the return of an elected local authority mayor, the returning officer must inform the proper officer[16] of the local authority[17] concerned of the result of the election[18]; and at any election for the return of London Mayor, the Greater London returning officer must inform the proper officer of the London Authority[19] of the result of the election[20].

1 As to returning officers at local government elections (including elections for the return of an elected local authority mayor) see para 359 et seq ante. In the case of an election for the return of London Mayor, the returning officer is the Greater London returning officer (for the meaning of which see para 218 note 7 ante). As to elections for the return of an elected local authority mayor see para 205 et seq ante; and as to elections for the return of London Mayor see para 206 et seq ante.

2 Ie, for the purposes of an election for London Mayor, in accordance with the Greater London Authority Act 1999 s 4(2) or, for the purposes of elections for the return of an elected local authority mayor, in accordance with the Local Government Act 2000 s 42(2) (see para 346 ante).

3 Ie, for the purposes of an election for London Mayor, the Greater London Authority Act 1999 s 4(3)(a), Sch 2 Pt I paras 1–4 or, for the purposes of elections for the return of an elected local authority mayor, in accordance with the Local Government Act 2000 s 42(3), Sch 2 (see para 346 ante).

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 50(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 48(1).

5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2). As to the giving of public notice by the returning officer at an election for the return of an elected local authority mayor or for the return of London Mayor see para 359 ante.

6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(a).

7 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(b).

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(c). As to the statement of rejected ballot papers at local authority or London mayoral elections see para 453 ante.

9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(d).

10 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(2)(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(2)(d)(i).

11 Ibid Sch 1 r 48(2)(d)(ii).

12 As to the procedure at uncontested elections see para 477 ante.

13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(3). As to withdrawals of candidature see para 269 ante.

14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(3)(a).

15 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 50(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(3)(b).

16 For the meaning of 'proper officer' see para 155 note 2 ante.

17 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.

18 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 48(4).

19 For the meaning of 'proper officer' in this context see LONDON GOVERNMENT vol 29(2) (Reissue) para 83.

20 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 50(4), Sch 4 r 13(2).

486. Return or forfeiture of candidate's deposit at local authority or London mayoral election. A candidate's deposit at an election for the return of an elected local authority mayor or for the return of London Mayor[1] is forfeited to the local authority[2] of the electoral area[3] concerned or to the Greater London Authority[4] (as the case may be) if a poll is taken and if, after the first calculation is completed[5], the candidate is found not to have polled more than one-twentieth of the total number of first preference votes polled by all the candidates[6].

Otherwise, the deposit must be returned, not later than the next day[7] after that on which the result of the election is declared, to the person making it or to his personal representatives[8]. For these purposes, a deposit is to be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day[9]. However, if the candidate is not shown as standing nominated in the statement of persons nominated or if proof of his death has been given to the returning officer[10] before the first calculation is completed[11], the deposit must be returned[12] as soon as practicable after the publication of the statement or after his death, as the case may be[13].

1 As to elections for the return of an elected local authority mayor see para 205 et seq ante; and as to elections for the return of London Mayor see para 206 et seq ante. As to deposits made in relation to such an election see para 266 ante.
2 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.
3 For the meaning of 'electoral area' see para 10 ante.
4 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq.
5 Ie, for the purposes of an election for London Mayor, under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(3), Sch 3 r 47 or, for the purposes of elections for the return of an elected local authority mayor, under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 45 (see para 456 ante).
6 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(1), (5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(1), (5).
7 For the purposes of this provision, a day is to be disregarded if it would be disregarded under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 3 (see para 218 note 6 ante) or the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 4 (see para 218 note 1 ante), as the case may be, in computing any period of time for the purposes of the timetable for an election of the kind in question: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(3)(a). Accordingly, as to the computation of time for these purposes see para 218 notes 1, 6 ante. The calculation of a period of time for the purposes of a London mayoral election takes place under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 4 rather than Sch 3 r 3 (which sets out the timetable): see para 218 note 6 ante.
8 Ibid Sch 3 r 51(1), (2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(1), (2).
9 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(3)(b).
10 As to returning officers at local government elections (including elections for the return of an elected local authority mayor) see para 359 et seq ante. In the case of an election for the return of London Mayor, the returning officer is the Greater London returning officer (for the meaning of which see para 218 note 7 ante).
11 See note 5 supra.
12 Ie, by virtue of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(1) or the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(1) (see the text and note 8 supra), to the person making the deposit or his personal representatives, as the case may be.
13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 51(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 49(4).

D. ELECTIONS TO THE NATIONAL ASSEMBLY FOR WALES

487. Declaration of result at Welsh Assembly constituency election. At a contested Welsh Assembly constituency election[1], when the result of the poll has been

ascertained[2], the constituency returning officer[3] must forthwith[4]: (1) declare to be elected the candidate to whom the majority of votes has been given[5]; (2) return his name and, if a certificate has been received by the constituency returning officer issued by the registered nominating officer of a registered political party[6] in respect of the candidate, the name of the party to the National Assembly for Wales[7]; (3) give public notice of his name and, if applicable, the registered political party and the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[8].

At an uncontested constituency election[9], the statement of persons nominated, in addition to showing the person standing nominated, must also declare that person elected, and the constituency returning officer must forthwith return his name and, if applicable, the name of the registered political party to the Assembly[10].

In either case, at an ordinary election, the constituency returning officer must forthwith also notify the regional returning officer[11] for the Assembly electoral region[12] in which the Assembly constituency[13] is situated as to the name of the candidate who has been returned and, if applicable, the name of the registered political party; and where the name of a candidate and registered political party is so notified, the candidate is to be treated[14] as a candidate of the party[15].

1 For the meanings of 'Assembly election' and 'Assembly constituency election' in the context of Welsh Assembly elections see para 3 note 1 ante.
2 As to ascertainment of the result mentioned in the text see para 466 ante.
3 For the meaning of 'constituency returning officer' in the context of Welsh Assembly elections see para 18 note 2 ante.
4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 57(1).
5 Ibid Sch 5 para 57(1)(a). As to the method of election at a Welsh Assembly constituency election see para 389 et seq ante.
6 Ie a certificate issued under ibid Sch 5 para 5(1) (see para 263 ante). For the meaning of 'registered political party' in the context of a Welsh Assembly regional election see para 237 note 23 ante. As to the registered nominating officer of a registered political party see para 260 ante.
7 Ibid Sch 5 para 57(1)(b). For these purposes, and for the purposes of Sch 5 para 57(2) (see the text and notes 9–10 infra), the constituency returning officer must return those names required to be returned, by: (1) completing a certificate in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of certificate referred to in paragraph 57(4)(a)) (Sch 5 para 57(4)(a)); and (2) delivering it, or causing it to be delivered, to the Assembly (Sch 5 para 57(4)(b)). A candidate must be treated as having been returned as an Assembly member when his name is so returned: Sch 5 para 57(4).
8 Ibid Sch 5 para 57(1)(c). As to the statement of rejected ballot papers at a Welsh Assembly election see para 463 ante.
9 As to the procedure at uncontested elections see para 477 ante.
10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 57(2). The text refers to returns made in accordance with Sch 5 para 57(4) (see note 7 supra).
11 For the meaning of 'regional returning officer' see para 18 note 2 ante.
12 For the meaning of 'Assembly regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.
13 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.
14 Ie for the purposes of the Government of Wales Act 2006 s 8(3)(b) (see para 345 ante).
15 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 57(3).

488. Declaration of result at Welsh Assembly regional election. After the regional returning officer[1] at a Welsh Assembly regional election[2] has ascertained the results of the poll[3], he must forthwith[4]: (1) announce the individual candidates[5] or the registered political parties[6] to whom seats have been allocated (together with the names of the party list candidates[7] who are to fill such seats)[8]; (2) declare those individual candidates or party list candidates to have been elected[9]; (3) return the names of those persons to the National Assembly for Wales and, in respect of any party list candidate,

the name of the registered political party for which he was such a candidate[10]; (4) give public notice of: (a) the name of any individual candidate elected[11]; (b) the name of any party list candidate elected (and the name of the registered political party for which he was such a candidate)[12]; (c) the total number of votes given for each individual candidate or registered political party together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[13]; and (d) in respect of that number of votes, a breakdown of the number of votes given for each such candidate or party in each Assembly constituency in the Assembly electoral region[14].

At an ordinary election, heads (1) to (3) and heads (4)(a) and (4)(b) above apply at an uncontested regional election[15] after the regional returning officer has: (i) received the required notification of results from each constituency returning officer for an Assembly constituency in the Assembly electoral region[16]; and (ii) disregarded any party list candidate who has been returned as a member for an Assembly constituency in the Assembly electoral region[17]. At an uncontested regional election other than at an ordinary election, the statement of persons nominated, in addition to showing the persons standing nominated and the registered political parties which have submitted a party list must also set out the individual candidates or the registered political parties to whom seats have been allocated (together with the names of the party list candidates who are to fill such seats)[18] and declare those individual or party list candidates to have been elected[19]. The regional returning officer must forthwith return the names of those persons to the Assembly (and, in respect of any party list candidate, the name of the registered political party for which he was such a candidate)[20].

1 For the meaning of 'regional returning officer' see para 18 note 2 ante.
2 For the meaning of 'Assembly regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.
3 As to ascertainment of results at a contested Welsh Assembly regional election see para 467 ante.
4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 59(1).
5 For the meaning of 'individual candidate' in the context of a Welsh Assembly regional election see para 237 note 23 ante.
6 For the meaning of 'registered political party' in the context of a Welsh Assembly regional election see para 237 note 23 ante.
7 For the meaning of 'party list candidate' in relation to a Welsh Assembly election see para 237 note 23 ante.
8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 59(1)(a). As to the allocation of seats see para 467 ante.
9 Ibid Sch 5 para 59(1)(b).
10 Ibid Sch 5 para 59(1)(c). For these purposes, and for the purposes of Sch 5 para 59(3) (see the text and notes 18–20 infra), the regional returning officer must return those names required to be returned: (1) by completing a certificate in the form set out in English and Welsh in Sch 5 Appendix of Forms (Form of certificate referred to in paragraph 59(4)(a)) (Sch 5 para 59(4)(a)); and (2) by delivering it, or causing it to be delivered, to the Assembly (Sch 5 para 59(4)(b)). A candidate must be treated as having been returned as an Assembly member when his name is so returned: Sch 5 para 59(4).
11 Ibid Sch 5 para 59(1)(d)(i).
12 Ibid Sch 5 para 59(1)(d)(ii).
13 Ibid Sch 5 para 59(1)(d)(iii). As to the statement of rejected ballot papers at a Welsh Assembly election see para 463 ante.
14 Ibid Sch 5 para 59(1)(d)(iv). For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.
15 As to the procedure at uncontested elections see para 477 ante.
16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 21(4)(a), 59(2). The text refers to the notification required by Sch 5 para 57(3) (see para 487 ante) unless in any case a poll at a constituency election has been postponed under Sch 5 para 65(1) (as to which see para 510 post).
17 Ibid Sch 5 paras 21(4)(b), 59(2).
18 Ibid Sch 5 para 59(3)(a).
19 Ibid Sch 5 para 59(3)(b).

20 Ibid Sch 5 para 59(3). The text refers to returns made in accordance with Sch 5 para 59(4) (see note 10 supra).

489. Return of members to the National Assembly for Wales and record of returns and vacancies. The National Assembly for Wales must on receipt of a certificate of returns[1] enter the information contained in the certificate in a book kept for that purpose at the Assembly (the 'returns book')[2]. Where the presiding officer of the Assembly[3] sends a notice of a vacancy[4], he must record in the returns book the fact of the vacancy in the Assembly constituency[5] or electoral region concerned[6].

Where the presiding officer of the Assembly concludes that an election to fill a casual vacancy in an Assembly constituency must not be held because the date of poll is within three months preceding an ordinary election[7], he must record in the returns book the fact of the vacancy in the Assembly constituency concerned[8] and record that no election is to be held to fill the vacancy because the restriction applies[9]. Where it comes to the notice of the presiding officer of the Assembly that the seat of an Assembly member returned for an Assembly electoral region is vacant[10] and the person was returned as an individual candidate[11], he must record in the returns book the fact of that vacancy in the Assembly electoral region concerned[12], and that the seat[13] is to remain vacant until the next ordinary election[14].

The returns book must be open to public inspection at reasonable times and any person may, on payment of a reasonable fee, obtain copies from the book[15].

1 Ie a certificate delivered under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 57(4) (see para 487 ante), Sch 5 para 59(4) (see para 488 ante) or Sch 5 para 67(10) or (11) (see para 222 ante).
2 Ibid Sch 5 para 68(1).
3 As to the presiding officer of the Assembly see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
4 Ie under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 66 (Assembly constituency seats: see para 221 ante) or Sch 5 para 67(1) (return of electoral region members: see para 222 ante).
5 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.
6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 68(2). For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.
7 Ie because the Government of Wales Act 2006 s 10(7) applies (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 68(3)(a).
9 Ibid Sch 5 para 68(3)(b). The text refers to recording the fact that the Government of Wales Act 2006 s 10(7) applies (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 68(4)(a).
11 Ibid Sch 5 para 68(4)(b). For the meaning of 'individual candidate' in the context of a Welsh Assembly regional election see para 237 note 23 ante.
12 Ibid Sch 5 para 68(4)(i).
13 Ie in accordance with the Government of Wales Act 2006 s 11(7)(a) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 68(4)(ii).
15 Ibid Sch 5 para 68(5).

490. Return or forfeiture of candidate's deposit at Welsh Assembly election. The deposit made at an Assembly election[1] must be: (1) returned to the person making it or his personal representatives, in the case of a candidate at a constituency election[2] or an individual candidate[3] at a regional election[4]; (2) returned to

the registered nominating officer of a registered political party[5] which has submitted a party list[6], in the case of regional election[7]; or (3) forfeited to the Secretary of State[8].

Generally, a deposit must be returned not later than the next day after that on which the result or results of the election are declared[9]. For these purposes, the deposit must be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day[10].

However, if a poll is taken, the deposit must be forfeited in any case where, after the counting of the votes (including any recount), a candidate (in the case of a constituency election)[11] or an individual candidate or a registered political party (in the case of a regional election)[12] is found not to have polled more than one-twentieth of the total number of votes polled by all the candidates or, as the case may be, all the individual candidates and registered political parties[13]. If at an Assembly election a person is shown as standing nominated as a candidate at a constituency election[14] or an individual or party list candidate at a regional election[15] and, by virtue of such nomination, he is in breach of the requirements for inclusion in a party list[16] or in breach of the requirements to be an individual candidate[17], either his deposit[18], or the deposit paid in respect of the group of party list candidates of which he is such a candidate[19], must be forfeited[20].

If a candidate at a constituency election[21] or an individual candidate or each and every candidate included on a party list at a regional election[22] is not shown as standing nominated in the statement of persons nominated[23], or if notice of the poll is countermanded or the poll is abandoned by reason of a candidate's death[24], the deposit must be returned[25] as soon as practicable after the publication of the statement or after his death[26].

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to deposits made in relation to such an election see para 266 ante.
2 For the meaning of 'Assembly constituency election' in the context of Welsh Assembly elections see para 3 note 1 ante.
3 For the meaning of 'individual candidate' in the context of a Welsh Assembly regional election see para 237 note 23 ante.
4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 60(1)(a). For the meaning of 'Assembly regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.
5 For the meaning of 'registered political party' in the context of a Welsh Assembly regional election see para 237 note 23 ante. As to the registered nominating officer of a registered political party see para 260 ante.
6 As to the submission of lists of candidates to be members for a Welsh Assembly region see para 234 ante.
7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 60(1)(b).
8 Ibid Sch 5 para 60(1)(c). As to the Secretary of State see para 2 ante.
9 Ibid Sch 5 para 60(2). For this purpose, a day is to be disregarded if it would be disregarded under Sch 5 para 2 (see para 223 note 1 ante) in computing any period of time for the purposes of the timetable for the election: Sch 5 para 60(3)(a). Accordingly, as to the computation of time for these purposes see para 223 note 1 ante.
10 Ibid Sch 5 para 60(3)(b).
11 Ibid Sch 5 para 60(5)(a).
12 Ibid Sch 5 para 60(5)(b).
13 Ibid Sch 5 para 60(5).
14 Ibid Sch 5 para 60(6)(a).
15 Ibid Sch 5 para 60(6)(b).
16 Ie in breach of the Government of Wales Act 2006 s 7(5) (see para 234 ante).
17 Ie in breach of ibid s 7(6) (see para 234 ante).
18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 60(6)(i).
19 Ibid Sch 5 para 60(6)(ii). For the meaning of references to a group of party list candidates see para 237 note 23 ante.
20 Ibid Sch 5 para 60(6).
21 Ibid Sch 5 para 60(4)(a).

22 Ibid Sch 5 para 60(4)(b).
23 As to the statement of persons nominated at an election see para 272 ante.
24 As to countermand on the death of the candidate at a Welsh Assembly election see para 510 post.
25 Ie, by virtue of head (1) or head (2) in the text, either to the person making it or his personal representatives (in the case of a candidate at a constituency election or an individual candidate at a regional election) or to the registered nominating officer of a registered political party which has submitted a party list (in the case of regional election).
26 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 60(4).

E. EUROPEAN PARLIAMENTARY ELECTIONS

491. Declaration of result. In a contested European parliamentary election[1], when the result of the allocation and the filling of seats has been ascertained[2], the returning officer[3] must: (1) forthwith declare to be elected those candidates on a registered party's list[4] by whom seats are filled and those individual candidates[5] to whom seats are allocated[6]; (2) prepare a statement setting out: (a) the total number of valid votes (as notified to him) given to each registered party and individual candidate[7]; (b) the number of votes which such a party or candidate had[8] at any stage when a seat was allocated to that party or candidate[9]; (c) the names in full and home address in full of each candidate who fills a seat or to whom a seat has been allocated[10]; and (d) whether, in the case of a party, there are remaining candidates on that party's list who have not been declared to be elected[11]; and (3) give public notice[12] of that statement and send a copy to the Secretary of State[13].

In the case of an uncontested election[14], the statement of parties and individual candidates nominated[15], in addition to showing the registered parties, the candidates on the list of those parties and individual candidates standing nominated, must also declare to be elected any candidate so shown[16]. The returning officer must send a copy of that statement and declaration to the Secretary of State[17].

1 As to European parliamentary elections see para 224 et seq ante; and as to contested elections generally see para 368 et seq ante.
2 As to the allocation of seats at a European parliamentary election see para 476 ante.
3 As to returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
4 For the meanings of 'registered party' and 'list' in the context of a European parliamentary election see para 237 note 30 ante.
5 For the meaning of 'individual candidate' in the context of a European parliamentary election see para 237 note 32 ante.
6 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 56(1)(a). The text refers to those candidates on a registered party's list by whom seats are filled and those individual candidates to whom seats are allocated under Sch 1 para 54 (i e by the calculation and allocation of seats: see para 476 ante) and Sch 1 para 55 (i e by drawing lots where there is an equality of seats: see para 345 ante).
7 Ibid Sch 1 para 56(1)(b)(i).
8 Ie after the application of the European Parliamentary Elections Act 2002 s 2(4)–(9) (see para 345 ante).
9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 56(1)(b)(ii).
10 Ibid Sch 1 para 56(1)(b)(iii).
11 Ibid Sch 1 para 56(1)(b)(iv).
12 As to the giving of public notice by the returning officer or local returning officer for a European parliamentary election see para 246 note 30 ante.
13 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 56(1)(c). As to the Secretary of State see para 2 ante.
14 As to the procedure at uncontested elections see para 477 ante.
15 As to the statement of parties and individual candidates nominated see para 272 ante.
16 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 56(2).
17 Ibid Sch 1 para 56(2).

492. Return or forfeiture of candidate's deposit. A candidate's deposit at a European parliamentary election[1] is forfeited to the Crown if a poll is taken and, after the total number of valid votes for each registered party[2] and individual candidate[3] has been ascertained[4], the party or candidate is found not to have polled more than one-fortieth of the total number of votes polled by all the parties and candidates[5].

Otherwise, a deposit must be returned, not later than the next day[6] after that on which the result of the election is declared, to the person making it or to his personal representatives[7]. For these purposes, a deposit is to be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day[8].

However, where a registered party or an individual candidate is not shown as standing nominated in the statement of parties and individual candidates nominated[9] or where, in the case of an individual candidate, the candidate has died[10], the deposit must be returned[11] as soon as practicable after the publication of that statement or the time when the returning officer is satisfied of the candidate's death, as the case may be[12].

1 As to European parliamentary elections see para 224 et seq ante; and as to the making of the deposit see para 266 ante.
2 For the meaning of 'registered party' in the context of a European parliamentary election see para 237 note 30 ante.
3 For the meaning of 'individual candidate' in the context of a European parliamentary election see para 237 note 32 ante.
4 Ie under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 54(1) (see para 476 ante).
5 Ibid Sch 1 para 57(1), (5).
6 For these purposes, a day must be disregarded if it would be disregarded under ibid Sch 1 para 2 (see para 230 note 1 ante) in computing any period of time for the purposes of the timetable for an election of the kind in question: Sch 1 para 57(3)(a). Accordingly, as to the computation of time for these purposes see para 230 note 1 ante.
7 Ibid Sch 1 para 57(1), (2).
8 Ibid Sch 1 para 57(3)(b).
9 Ibid Sch 1 para 57(4)(a). As to the statement of parties and individual candidates nominated see para 272 ante.
10 Ibid Sch 1 para 57(4)(b). There is no further provision as to countermand on the death of the candidate at a European parliamentary election: see para 509 et seq post.
11 Ie, by virtue of ibid Sch 1 para 57(1) (see the text and note 7 supra), to the person making the deposit or his personal representatives, as the case may be.
12 Ibid Sch 1 para 57(4).

(ix) Disposal of Documents

A. SEALING OF BALLOT PAPERS

493. Sealing up of ballot papers. On the completion of the counting at a contested election or at a poll consequent on a parish meeting involving an appointment to office[1], the returning officer[2] must seal up in separate packets the counted and rejected ballot papers[3].

The returning officer must not open the sealed packets of: (1) tendered ballot papers[4]; (2) the completed corresponding number lists (in the case of a parliamentary election or a local government election for a principal area, parish or community)[5] or counterfoils (in the case of any other election)[6]; (3) certificates as to employment on duty on the day of the poll[7]; or (4) marked copies of the register of electors[8] and lists of proxies[9].

1 As to contested elections and polls consequent on a parish or community meeting involving an appointment to office see para 368 et seq ante. As to the deemed completion of the counting of the votes at a European parliamentary election in cases where the count has commenced before the close of the polling in the member state whose electors are the last to vote in the election see the European

Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 48(6); and para 471 ante. As to European parliamentary elections see para 224 et seq ante.

2 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante. In the case of a London Authority election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see para 218 note 8 ante). In the case of a Welsh Assembly election, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see para 18 note 2 ante). In the case of European parliamentary elections, the appropriate returning officer is the local returning officer (as to which see para 365 et seq ante).

3 Representation of the People Act 1983 s 23(1), Sch 1 r 54(1); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 33(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 47(1), Sch 2 r 50(1), Sch 3 r 52(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 50(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 61(1); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 51(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 51(1). In the case of local government elections for principal areas, parishes and communities, and a poll consequent on a parish meeting involving an appointment to office, the packet of rejected ballot papers must include those rejected in part also: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(1). At an ordinary Welsh Assembly election, the packets sealed up as mentioned in the text must not contain ballot papers relating to different elections: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(2).

As to the procedure to be followed when, the result of an election having been declared by the returning officer, a parcel of ballot papers is discovered uncounted see para 854 note 3 post.

4 Representation of the People Act 1983 Sch 1 r 54(2)(a) (Sch 1 r 54(2) substituted by the Electoral Administration Act 2006 s 31(1), (5)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 47(2), Sch 2 r 50(2), Sch 3 r 52(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 50(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(a). As to tendered ballot papers see para 408 ante.

Any amendment effected by the Electoral Administration Act 2006 s 31 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 Sch 1 r 54(2)(b) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(b). See note 4 supra. As to the completed corresponding number lists see para 410 note 10 ante.

6 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 47(2), Sch 2 r 50(2), Sch 3 r 52(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 50(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(2). As to the retention of counterfoils see para 410 ante.

7 Representation of the People Act 1983 Sch 1 r 54(2)(c) (as substituted: see note 4 supra); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 47(2), Sch 2 r 50(2), Sch 3 r 52(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 50(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(c). See note 4 supra. As to certificates of employment on duty on the day of the poll see para 402 ante. There is no provision for certificates as to employment on duty at a poll consequent on a parish meeting on a question involving appointment to office and accordingly head (3) in the text does not apply in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2).

8 Ie including, in the case of a parliamentary election or a local government election for a principal area, parish or community, any marked copy notices issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (notices specifying appropriate alterations to the register: see para 175 ante): Sch 1 r 54(2)(d) (as substituted: see note 4 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(d). See note 4 supra.

9 Representation of the People Act 1983 Sch 1 r 54(2)(d) (as substituted: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 47(2), Sch 2 r 50(2), Sch 3 r 52(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 50(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 61(3)(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 51(2)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 51(2)(d). See note 4 supra. As to the list of proxies see para 378 ante. There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the reference to the list of proxies is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2). The documents relating to a European parliamentary election are retained by the local returning officer (see para 501 post) and he is required to make the marked copies of the register of electors and list of proxies open to inspection by the public (see para 507 post); accordingly, in that case, head (4) in the text does not apply: see the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 58(2).

B. CONTROL OF ELECTION DOCUMENTS

494. Transfer of documents relating to parliamentary elections. The returning officer at a parliamentary election[1] must, after sealing up the ballot papers[2], forward to the relevant registration officer[3]: (1) the packets of ballot papers in his possession[4]; (2) the ballot paper accounts, and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts[5]; (3) the tendered votes lists[6], the lists of voters with disabilities assisted by companions[7], the lists of votes marked by the presiding officers and the statements relating to them[8], the lists maintained of persons to whom ballot papers are delivered in consequence of an alteration to the register which takes effect on the day of the poll[9] and the declarations made by the companions of voters with disabilities[10]; (4) the packets of the completed corresponding number lists[11]; (5) the packets of certificates as to employment on duty on the day of the poll[12]; (6) the packets containing marked copies of the registers of electors[13] and of the postal voters list[14], of lists of proxies[15] and of the proxy postal voters list[16]; and (7) such other documents relating to elections as are prescribed[17], endorsing on each packet a description of its contents, the date of the election to which they relate, and the name of the constituency for which the election was held[18].

1 As to returning officers for parliamentary elections see para 355 et seq ante. For the meaning of 'parliamentary election' see para 9 ante.

2 As to the sealing up of ballot papers see para 493 ante.

3 Representation of the People Act 1983 s 23(1), Sch 1 r 55(1) (amended by the Electoral Administration Act 2006 s 41(1), (3)(a)). For the purposes of the Representation of the People Act 1983 Sch 1 rr 55–57 (as amended), references to the relevant registration officer are to the registration officer of the local authority in whose area the constituency is situated or, if the constituency comprises any part of the area of more than one local authority, to the registration officer of the local authority in whose area the greater or greatest (as the case may be) number of electors is registered: Sch 1 r 55(1A) (added by the Electoral Administration Act 2006 s 41(1), (3)(b)). For the meaning of 'constituency' for these purposes see para 9 ante. As to registration officers and the areas for which they act see para 154 ante.

Any amendment effected by the Electoral Administration Act 2006 s 41(1), (3) has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Until that date, the relevant officer at a parliamentary election is the Clerk of the Crown (i e the Clerk of the Crown in Chancery: see the Representation of the People Act 1983 s 202(1)); and as to delivery of election documents to the Clerk of the Crown see Sch 1 r 55(2)–(4) (repealed by the Electoral

Administration Act 2006 ss 41(1), (3)(c), 74, Sch 2). As to the Clerk of the Crown in Chancery see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.

4 Representation of the People Act 1983 Sch 1 r 55(1)(a).

5 Ibid Sch 1 r 55(1)(b). As to the verification of the ballot paper account at a parliamentary election see para 433 ante; and as to the statement of rejected ballot papers see para 438 ante.

6 As to the tendered votes list see para 408 ante.

7 As to the list of voters with disabilities assisted by companions see para 407 ante.

8 As to the list of votes marked by the presiding officer see para 406 ante.

9 Ie the lists maintained under the Representation of the People Act 1983 Sch 1 r 41A (as added) (see para 404 ante): Sch 1 r 55(1)(c) (amended by the Electoral Administration Act 2006 s 11(6), Sch 1 paras 31, 33, 40(a)).

The amendments effected by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 40 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

10 Representation of the People Act 1983 Sch 1 r 55(1)(c) (amended by the Representation of the People Act 2000 s 13(1), (4)). See also note 9 supra. As to declarations made by the companions of voters with disabilities see para 407 ante.

11 Representation of the People Act 1983 Sch 1 r 55(1)(ca) (added by the Electoral Administration Act 2006 s 31(1), (6)(a)). See note 9 supra. As to the completed corresponding number lists see para 410 note 10 ante.

12 Representation of the People Act 1983 Sch 1 r 55(1)(d) (amended by the Electoral Administration Act 2006 ss 31(1), (6)(b), 74(2), Sch 2). See note 9 supra. As to certificates of employment on duty on the day of the poll see para 402 ante.

13 Ie including any marked copy notices issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (notices specifying appropriate alterations to the register: see para 175 ante): Sch 1 r 55(1)(e) (amended by the Electoral Administration Act 2006 Sch 1 paras 31, 33, 40(b)). See note 9 supra.

14 As to the postal voters list see para 378 ante.

15 As to the list of proxies see para 378 ante.

16 Representation of the People Act 1983 Sch 1 r 55(1)(e) (amended by the Electoral Administration Act 2006 s 45(1), (3)(a)). See also note 13 supra. As to the proxy postal voters list see para 386 ante.

Any amendment effected by the Electoral Administration Act 2006 s 45 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

17 Representation of the People Act 1983 Sch 1 r 55(1)(f) (added by the Electoral Administration Act 2006 s 45(1), (3)(b)). See note 16 supra.

18 Representation of the People Act 1983 Sch 1 r 55(1). For the meaning of 'constituency' in relation to a parliamentary election see para 9 ante.

495. Forwarding of documents after postal voting at a parliamentary election. The returning officer at a parliamentary election[1], at the same time as he forwards the election documents collated from polling stations[2], must forward to the relevant registration officer[3] certain packets[4] containing documents relating to postal voting[5]. He must endorse on each packet a description of its contents, the date of the election to which it relates, and the name of the constituency for which the election was held[6]. He must also forward to the relevant registration officer a completed statement in the prescribed form[7] of the number of postal ballot papers issued[8] at a parliamentary election[9]. A copy of that statement must be provided by the returning officer to the Secretary of State[10] and the Electoral Commission[11] in the period which starts ten days after the day of the poll and ends 15 days after that day[12].

Where any covering envelopes[13] are received by the returning officer after the close of the poll[14] or any envelopes addressed to postal voters[15] are returned as undelivered too late to be re-addressed, or any spoilt postal ballot papers[16] are returned too late to enable other postal ballot papers to be issued, the returning officer must put them unopened into a separate packet, seal up the packet and endorse and forward it at a subsequent date in the same manner as the postal voting packets previously forwarded[17].

Any packet or statement forwarded under the provisions set out above is deemed to have been forwarded in pursuance of the parliamentary elections rules[18] and is subject to the usual provisions which govern orders for the production of election documents[19] and the retention and public inspection of election documents[20].

1 For the meaning of 'parliamentary election' see para 9 ante. As to returning officers for parliamentary elections see para 355 et seq ante.
2 Ie the documents referred to in the Representation of the People Act 1983 s 23(1), Sch 1 r 55 (as amended) (see para 494 ante).
3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1) (amended by SI 2006/2910). The text refers to the relevant registration officer determined in accordance with the Representation of the People Act 1983 Sch 1 r 55(1A) (as added) (see para 494 ante).
4 Ie the packets referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75 (counterfoils and special lists: see para 418 ante), reg 77(6) (spoilt postal ballot papers: see para 420 ante), reg 78(2C) (as added) (cancelled postal ballot papers: see para 421 ante), reg 84(9) (as added) (copy of the marked postal voters list and proxy postal voters list: see para 428 ante) and reg 89 (contents of receptacles: see para 430 ante).
5 Ibid reg 91(1)(a) (amended by SI 2006/752; SI 2006/2910). This is subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90 (countermand or abandonment of poll after postal ballot papers have been issued: see para 511 post).
6 Ibid reg 91(1)(a) (as amended: see note 5 supra). For the meaning of 'constituency' in relation to a parliamentary election see para 9 ante.
7 The prescribed form is set out for the purposes of a parliamentary election in ibid reg 91(1)(b), Sch 3 Forms (Form K: statement as to postal ballot papers) (substituted by SI 2006/2910). The version partly in Welsh and partly in English must be used at a parliamentary election in Wales as set out in the Parliamentary Elections (Welsh Forms) Order 2005, SI 2005/1105, art 6(1)(j), Sch 2 (Form 13: statement as to postal ballot papers).
8 For the meaning of 'postal ballot paper' see para 412 note 3 ante. As to the issue of postal ballot papers see para 411 et seq ante.
9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1)(b) (reg 91(1) as amended (see note 3 supra); and reg 91(1)(b) amended by SI 2006/752).
10 As to the Secretary of State see para 2 ante.
11 As to the Electoral Commission see para 31 et seq ante.
12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(5) (amended by SI 2006/752).
13 For the meaning of 'covering envelope' see para 416 ante.
14 Ie apart from those delivered by the presiding officer in accordance with the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (as amended) (see para 425 ante).
15 For the meaning of 'postal voter' see para 412 note 3 ante.
16 As to spoilt postal ballot papers see para 420 ante.
17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(3).
18 For the meaning of 'parliamentary elections rules' see para 388 ante.
19 Ie the Representation of the People Act 1983 Sch 1 r 56 (as amended) (see paras 834, 849 post).
20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(4). The text refers to the provisions set out in the Representation of the People Act 1983 Sch 1 r 57 (as amended) (see para 503 post).

496. Transfer of documents relating to certain local government elections and local authority mayoral elections. The returning officer at certain local government elections or at a local authority mayoral election[1], must, after sealing up the ballot papers[2], forward to the appropriate officer[3]: (1) the packets of ballot papers in his possession[4]; (2) the ballot paper accounts, and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts[5]; (3) the tendered votes lists[6], the lists of voters with disabilities assisted by companions[7], the lists of votes marked by the presiding officers and the statements relating to them[8], the declarations made by the companions of voters with disabilities[9] and (in the case of a local government election for a principal area, parish or community council) the list of persons to whom ballot papers were delivered in consequence of an alteration to the register which took

effect on the day of the poll[10]; (4) the packets of the completed corresponding number lists (in the case of a local government election for a principal area, parish or community council)[11] or of the counterfoils of the used ballot papers (otherwise)[12]; (5) the packets of certificates as to employment on duty on the day of the poll[13]; and (6) the packets containing marked copies of the registers of electors and of lists of proxies and (in the case of a local government election for a principal area, parish or community council) of the postal voters list and of the proxy postal voters list[14].

At a poll consequent on a parish meeting on a question involving appointment to office, or at a local authority mayoral election, the returning officer must endorse on each packet a description of its contents, the date of the poll or election (as the case may be) to which they relate, and the name of the parish for which the poll was held or the name of the electoral area for which the election was held (as the case may be)[15].

1 Ie in relation to local government elections, except Authority elections (as to which see para 497 post), but including a poll consequent on a parish meeting taken on the question of appointment to any office and local authority mayoral elections. For the meanings of 'Authority election' and 'local government election' see para 10 ante. As to elections for the return of an elected local authority mayor see para 205 et seq ante; as to polls consequent on a parish meeting involving an appointment to office see para 207 et seq ante; as to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on parish meeting see para 361 ante.

2 As to the sealing up of ballot papers see para 493 ante.

3 Ie, in the case of a local government election for a principal area, parish or community council, the relevant registration officer; at a poll consequent on a parish meeting involving an appointment to office, the proper officer of the council of the district in which the parish is situate; and, at a local authority mayoral election, the proper officer of the local authority concerned. For these purposes, in relation to a local government election for a principal area, parish or community council, references to the relevant registration officer are to the registration officer of the local authority in whose area the election is held and, in the case of a parish or community election, in which the parish or community is situate: Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 52(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 52(2). For the purposes of a poll consequent on a parish meeting, any references to a proper officer of a council means any officer appointed for the purpose by that council: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 38(3). For the meaning of 'proper officer' generally see para 155 note 2 ante. For the meaning of 'local authority' for the purposes of a local authority mayoral election see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.

4 Ibid Schedule r 34(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 51(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(a).

5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(b).

6 As to the tendered votes list see para 408 ante.

7 As to the list of voters with disabilities assisted by companions see para 407 ante.

8 As to the list of votes marked by the presiding officer see para 406 ante.

9 As to declarations made by the companions of voters with disabilities see para 407 ante.

10 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(c); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(e); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(c); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(c). The list referred to in the text of persons to whom ballot papers were delivered in consequence of an alteration to the register which took effect on the day of the poll is a reference to the list maintained by the presiding officer, in relation to a local government election for a principal area, under the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 41 and, in relation to a local government election for a parish and community council, under the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 41 (see para 404 ante): see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(c); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2

r 52(1)(c). At a poll consequent on a parish meeting on a question involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other disabilities must be ignored in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(c).

11 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(d); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(d). As to the completed corresponding number lists see para 410 note 10 ante.

12 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(d); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(c).

13 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(c); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(e); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(e). As to certificates of employment on duty on the day of the poll see para 402 ante. There is no provision for certificates as to employment on duty at a poll consequent on a parish meeting on a question involving appointment to office, and accordingly the reference to such certificates in head (5) in the text is omitted in that case.

14 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(e); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51(d); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(f); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(f). In the case of a local government election for a principal area, parish or community, the reference to the marked copies of registers includes any marked copy notices of alteration to the register issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (see para 175 ante): see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 52(1)(f); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 52(1)(f). There is no provision for voting by proxy at a poll consequent on a parish meeting on a question involving appointment to office, and accordingly the reference to the list of proxies in head (6) in the text is omitted in that case. As to the postal voters list and the list of proxies see para 378 post; and as to the proxy postal voters list see para 386 ante.

15 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34; Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 51.

497. Transfer of documents relating to London Authority elections. The constituency returning officer at a London Authority election[1] must, after sealing up the ballot papers[2], transfer to the control of the Greater London returning officer ('GLRO')[3]: (1) the packets of ballot papers in his possession[4]; (2) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts[5]; and (3) the packets of counterfoils and certificates as to employment on duty on the day of the poll[6], endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the constituency[7] for which the election was held[8]. The packets containing: (a) the marked copies of registers and of lists of proxies[9]; and (b) the tendered votes lists[10], the lists of voters with disabilities assisted by companions[11], the lists of votes marked by the presiding officer and the related statements[12], and the declarations made by the companions of voters with disabilities[13], must be retained by the constituency returning officer[14].

Any document which has been transferred to the control of the GLRO in this way must be either kept by the constituency returning officer on behalf of the GLRO[15] or forwarded by the constituency returning officer to the GLRO[16], as the GLRO may decide[17].

1 For the meaning of 'Authority election' see para 10 ante; and for the meaning of 'constituency returning officer' in the context of such an election see para 218 note 8 ante.

2 As to the sealing up of ballot papers see para 493 ante.

3 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 48(1), Sch 2 r 51(1), Sch 3 r 53(1) (Sch 1 r 48(1), Sch 2 r 51(1), Sch 3 r 53(1) all amended by SI 2004/227). For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

4 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(1)(a), Sch 2 r 51(1)(a), Sch 3 r 53(1)(a).

5 Ibid Sch 1 r 48(1)(b), Sch 2 r 51(1)(b), Sch 3 r 53(1)(b).
6 Ibid Sch 1 r 48(1)(c), Sch 2 r 51(1)(c), Sch 3 r 53(1)(c). As to certificates of employment on duty on the day of the poll see para 402 ante.
7 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 note 6 ante.
8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(1), Sch 2 r 51(1), Sch 3 r 53(1).
9 Ibid Sch 1 r 48(2)(a), Sch 2 r 51(2)(a), Sch 3 r 53(2)(a). As to the list of proxies see para 378 ante.
10 As to the tendered votes list see para 408 ante.
11 As to the list of voters with disabilities assisted by companions see para 407 ante.
12 As to the list of votes marked by the presiding officer see para 406 ante.
13 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(2)(b), Sch 2 r 51(2)(b), Sch 3 r 53(2)(b) (all amended by SI 2004/227). As to declarations made by the companions of voters with disabilities see para 407 ante.
14 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(2), Sch 2 r 51(2), Sch 3 r 53(2).
15 Ibid Sch 1 r 48(3)(a), Sch 2 r 51(3)(a), Sch 3 r 53(3)(a) (Sch 1 r 48(3), Sch 2 r 51(3), Sch 3 r 53(3) all added by SI 2004/227).
16 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 48(3)(b), Sch 2 r 51(3)(b), Sch 3 r 53(3)(b) (all as added: see note 15 supra).
17 Ibid Sch 1 r 48(3), Sch 2 r 51(3), Sch 3 r 53(3) (all as added: see note 15 supra).

498. Forwarding of documents after postal voting at a local government election. The returning officer at a local government election[1], at the same time as he forwards the election documents collated from polling stations[2], must forward to the proper officer of the authority to which councillors (or a mayor) are to be elected[3], or, in the case of a parish or community council election, the proper officer of the council of the district in England or county or county borough in Wales in which the parish or community is situated, certain packets[4] containing documents relating to postal voting[5]. He must endorse on each packet a description of its contents, the date of the election to which it relates, and the name of the electoral area (or areas) for which the election was held[6]. He must also forward to the proper officer a completed statement in the prescribed form[7] of the number of postal ballot papers issued[8] at a local government election[9]. A copy of that statement must be provided by the returning officer to the Secretary of State[10] and the Electoral Commission[11] in the period which starts ten days after the day of the poll and ends 15 days after that day[12].

Where any covering envelopes[13] are received by the returning officer after the close of the poll[14] or where any envelopes addressed to postal voters[15] are returned as undelivered too late to be re-addressed, or where any spoilt postal ballot papers[16] are returned too late to enable other postal ballot papers to be issued, the returning officer must put them unopened into a separate packet, seal up the packet and endorse and forward it at a subsequent date in the same manner as the postal voting packets previously forwarded[17].

Any packet or statement forwarded under the provisions set out above is deemed to have been forwarded in pursuance of the elections rules and is subject to the usual provisions which govern orders for the production of election documents[18] and the retention and public inspection of election documents[19].

1 Ie including an election for the return of a local authority mayor. For the meaning of 'local government election' see para 10 ante. As to elections for the return of a local authority mayor see para 205 ante. As to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante. As to elections in the City of London see para 30 ante.

References in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1), (2) (reg 91(1) as amended) to the case of a local government election have been repealed with effect from 1 January 2007, except in relation to any election for which the date of the poll specified in

the notice of election issued in relation to that election is on or before 2 May 2007: see the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, reg 1(1), (2), (3)(d).

2 Ie the documents referred to in the Representation of the People Act 1983 s 23(1), Sch 1 r 55 (as amended) (see para 494 ante).

3 For the meaning of 'proper officer' see para 155 note 2 ante. In the case of an election for the return of a local authority mayor, the documents are held by the local authority (for the meaning of which for these purposes see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24).

4 Ie the packets referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75 (counterfoils and special lists: see para 418 ante), reg 77(6) (spoilt postal ballot papers: see para 420 ante), reg 78(2C) (as added) (cancelled postal ballot papers: see para 421 ante) and reg 89 (contents of receptacles: see para 430 ante).

5 Ibid reg 91(1)(a), (2) (reg 91(1)(a) amended by SI 2006/752). As to the effect of this provision see note 1 supra. This is subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90 (countermand or abandonment of poll: see para 511 post).

6 Ibid reg 91(1)(a) (as amended: see note 5 supra). As to the effect of this provision see note 1 supra. For the meaning of 'electoral area' see para 10 ante.

7 The prescribed form is set out in ibid reg 91(1)(b), Sch 3 (Form K: statement as to postal ballot papers) (substituted by SI 2006/2910). As to the effect of this provision see note 1 supra.

8 For the meaning of 'postal ballot paper' see para 412 note 3 ante. As to the issue of postal ballot papers see para 411 et seq ante.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1)(b) (amended by SI 2006/752). As to the effect of this provision see note 1 supra.

10 As to the Secretary of State see para 2 ante.

11 As to the Electoral Commission see para 31 et seq ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(5) (amended by SI 2006/752).

13 For the meaning of 'covering envelope' see para 416 ante.

14 Ie apart from those delivered by the presiding officer in accordance with the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (as amended) (see para 425 ante).

15 For the meaning of 'postal voter' see para 412 note 3 ante.

16 As to spoilt postal ballot papers see para 420 ante.

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(3).

18 See paras 834, 849 post.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(4). As to the provisions referred to in the text see para 504 post.

499. Transfer of documents relating to elections to the National Assembly for Wales. Where a constituency returning officer[1] has conducted a count at an ordinary Welsh Assembly election[2] for both a constituency[3] and a regional election[4], he must then forward to the clerk to the National Assembly for Wales[5]: (1) the packets of ballot papers in his possession relating to the constituency election[6]; (2) the packets of ballot papers in his possession relating to the regional election[7]; (3) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts relating to the constituency election[8]; (4) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts relating to the regional election[9]; (5) the tendered votes lists[10], the lists of voters with disabilities assisted by companions[11], the lists of votes marked by the presiding officer and the related statements[12], and the declarations made by the companions of voters with disabilities relating to those elections[13]; (6) the packets of counterfoils relating to the constituency election[14]; (7) the packets of counterfoils relating to the regional election[15]; (8) the packets of the certificates as to employment on duty on the day of the poll relating to those elections[16]; and (9) the packets containing marked copies of registers and of lists of proxies relating to those elections[17], endorsing on each packet: (a) a description of its contents[18]; (b) the date of the election or elections to which they relate[19]; (c) where the packet relates to the constituency election, the name of the Assembly constituency[20] for which the election was held[21]; (d)

where the packet relates to a regional election, the name of the Assembly electoral region[22] for which the election was held and the name of the Assembly constituency in which the electoral region votes were given[23]; and (e) where the packet relates to both elections, the name of the Assembly constituency and electoral region for which the elections were held[24].

Where a constituency returning officer has conducted a count at an Assembly election other than at an ordinary Welsh Assembly election for both a constituency and a regional election, he must then forward to the National Assembly for Wales: (i) the packets of ballot papers in his possession[25]; (ii) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts[26]; (iii) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, and the declarations made by the companions of voters with disabilities[27]; (iv) the packets of counterfoils[28]; (v) the packets of the certificates as to employment on duty on the day of the poll[29]; and (vi) the packets containing marked copies of registers and of lists of proxies[30], endorsing on each packet: (A) a description of its contents[31]; (B) the date of the election to which they relate[32]; (C) the name of the Assembly constituency or electoral region for which the election was held[33]; and (D) in the case of a regional election, the name of the Assembly constituency in which the electoral region votes were given[34].

The constituency returning officer may forward the documents either by delivering them himself or by his agent to the clerk to the Assembly or by sending them by post[35]. If the constituency returning officer sends them by post, he must deliver the documents to the official designated by the universal postal service provider concerned or the deputy of that official[36]. The designated official or his deputy must give a receipt in respect of those documents to the constituency returning officer and send the documents by the first post to the clerk to the Assembly[37]. The constituency returning officer must send a letter to the clerk to the Assembly by the same post as the one by which he sends the documents, specifying the number and description of the documents so sent[38] and a copy of the receipt given him by the designated official or his deputy must be signed by him and retained by the designated official or his deputy[39]. On receipt of the documents by the clerk to the Assembly, a receipt must be given to the person delivering them, and the receipt of those documents must be registered in books kept for the purpose by the Assembly specifying the date and time of receipt[40]. Any receipt to be given for the documents must show the date and time of their receipt[41].

1 For the meaning of 'constituency returning officer' in the context of Welsh Assembly elections see para 18 note 2 ante.
2 For the meaning of 'Assembly election' in this context see para 3 note 1 ante. As to counts made in relation to such an election see para 460 et seq ante.
3 For the meaning of 'Assembly constituency election' in this context see para 3 note 1 ante.
4 For the meaning of 'Assembly regional election' in this context see para 3 note 1 ante.
5 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 62(1).
6 Ibid Sch 5 para 62(1)(a).
7 Ibid Sch 5 para 62(1)(b).
8 Ibid Sch 5 para 62(1)(c).
9 Ibid Sch 5 para 62(1)(d).
10 As to the tendered votes list see para 408 ante.
11 As to the list of voters with disabilities assisted by companions see para 407 ante.
12 As to the list of votes marked by the presiding officer see para 406 ante.
13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 62(1)(e). As to declarations made by the companions of voters with disabilities see para 407 ante.
14 Ibid Sch 5 para 62(1)(f).
15 Ibid Sch 5 para 62(1)(g).

16 Ibid Sch 5 para 62(1)(h). As to certificates of employment on duty on the day of the poll see para 402 ante.
17 Ibid Sch 5 para 62(1)(i). As to the list of proxies see para 378 ante.
18 Ibid Sch 5 para 62(1)(i).
19 Ibid Sch 5 para 62(1)(ii).
20 For the meaning of 'constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.
21 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 62(1)(iii).
22 For the meaning of 'electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.
23 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 62(1)(iv).
24 Ibid Sch 5 para 62(1)(v).
25 Ibid Sch 5 para 62(2)(a).
26 Ibid Sch 5 para 62(2)(b).
27 Ibid Sch 5 para 62(2)(c).
28 Ibid Sch 5 para 62(2)(d).
29 Ibid Sch 5 para 62(2)(e).
30 Ibid Sch 5 para 62(2)(f).
31 Ibid Sch 5 para 62(2)(i).
32 Ibid Sch 5 para 62(2)(ii).
33 Ibid Sch 5 para 62(2)(iii).
34 Ibid Sch 5 para 62(2)(iv).
35 Ibid Sch 5 para 62(3).
36 Ibid Sch 5 para 62(4)(a).
37 Ibid Sch 5 para 62(4)(b).
38 Ibid Sch 5 para 62(4)(c).
39 Ibid Sch 5 para 62(4)(d).
40 Ibid Sch 5 para 62(5).
41 Ibid Sch 5 para 62(6).

500. Forwarding of documents after postal voting at an election to the National Assembly for Wales. The constituency returning officer at a Welsh Assembly election[1], at the same time as he forwards the election documents collated from polling stations[2], must forward to the National Assembly for Wales[3] certain packets[4] containing documents relating to postal voting[5]. He must endorse on each packet a description of its contents, the date of the election to which it relates, and the name of the constituency[6] or electoral area or areas[7] for which the election was held[6]. He must also forward to the Assembly a completed 'statement as to postal ballot papers' in the prescribed form[9], stating the number of postal ballot papers issued[10] at the election[11]. A copy of that statement must be provided by the constituency returning officer to the Assembly and the Electoral Commission[12] in the period which starts ten days after the day of the poll and ends 15 days after that day[13].

Where any covering envelopes[14] are received by the returning officer after the close of the poll[15] or any envelopes addressed to postal voters[16] are returned as undelivered too late to be re-addressed, or any spoilt postal ballot papers[17] are returned too late to enable other postal ballot papers to be issued, the constituency returning officer must put them unopened into a separate packet, seal up the packet and endorse and forward it at a subsequent date in the same manner as the postal voting packets previously forwarded[18].

Any packet or statement forwarded under the provisions set out above is deemed to have been forwarded in pursuance of the elections rules[19] and is subject to the usual provisions which govern the delivery of election documents to the Assembly and orders for their production[20].

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'constituency returning officer' see para 18 note 2 ante.
2 Ie the documents referred to in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 62 (delivery of documents to the Assembly: see para 499 ante).

3 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
4 Ie the packets referred to in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 13 (see para 418 ante), Sch 3 para 14(6) (see para 420 ante), Sch 3 para 15(2C) (as added) (see para 421 ante) and Sch 3 para 25 (see para 430 ante).
5 Ibid Sch 3 para 27(1)(a) (amended by SI 2006/884). This is subject to the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 26 (countermand or abandonment of poll after postal ballot papers have been issued: see para 511 post).
6 For the meaning of 'Assembly constituency' for these purposes see para 3 note 1 ante.
7 Ie in the case of combined polls (as to which see para 20 ante). For the meaning of 'electoral area' see para 10 ante.
8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 27(1)(a) (as amended: see note 5 supra).
9 The prescribed form is set out for the purposes of a Welsh Assembly election in ibid Sch 3 Appendix of Forms (Form of statement as to postal ballot papers).
10 For the meaning of 'postal ballot paper' see para 412 note 3 ante. As to the issue of postal ballot papers see para 411 et seq ante.
11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 27(1)(b).
12 As to the Electoral Commission see para 31 et seq ante.
13 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 27(4) (amended by SI 2006/884).
14 For the meaning of 'covering envelope' see para 416 ante.
15 Ie apart from those delivered by the presiding officer in accordance with the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 50(6) (see para 425 ante).
16 For the meaning of 'postal voter' see para 412 note 3 ante.
17 As to spoilt postal ballot papers see para 420 ante.
18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 27(2).
19 Ie the rules contained in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see para 388 ante).
20 Ibid Sch 3 para 27(3). This provision refers to Sch 5 para 61 and Sch 5 para 62, but it is submitted that this should be a reference to Sch 5 para 62 (delivery of election documents to the Assembly: see para 499 ante) and Sch 5 para 63 (order for production of documents: see paras 834, 849 post). Schedule 5 para 61 deals with the sealing up of ballot papers: see para 493 ante.

501. Retention of documents relating to European parliamentary elections. The local returning officer at a European parliamentary election[1] must, after sealing up the ballot papers[2], retain[3]: (1) the packets of ballot papers in his possession[4]; (2) the ballot paper accounts, and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts[5]; (3) the tendered votes lists[6], the lists of voters with disabilities assisted by companions[7], the lists of votes marked by the presiding officers and the statements relating to them[8], and the declarations made by the companions of voters with disabilities[9]; (4) the packets of counterfoils and certificates as to employment on duty on the day of the poll[10]; and (5) the packets containing marked copies of the registers of electors and of lists of proxies[11], endorsing on each packet a description of its contents[12].

1 As to European parliamentary elections see para 224 et seq ante; and as to local returning officers appointed for the purposes of European parliamentary elections see para 365 et seq ante.
2 As to the sealing up of ballot papers see para 493 ante.
3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 59.
4 Ibid Sch 1 para 59(a).
5 Ibid Sch 1 para 59(b).
6 As to the tendered votes list see para 408 ante.
7 As to the list of voters with disabilities assisted by companions see para 407 ante.
8 As to the list of votes marked by the presiding officer see para 406 ante.
9 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 59(c). As to declarations made by the companions of voters with disabilities see para 407 ante.
10 Ibid Sch 1 para 59(d). As to certificates of employment on duty on the day of the poll see para 402 ante.
11 Ibid Sch 1 para 59(e). As to the list of proxies see para 378 ante.
12 Ibid Sch 1 para 59.

502. Retention of documents after postal voting at a European parliamentary election. At a European parliamentary election[1], the local returning officer[2] must retain for a period of one year after the date of the poll certain packets containing election documents relating to postal voting[3] and endorse on each packet a description of its contents[4]. After the expiry of that period, be must cause those packets to be destroyed, unless otherwise directed by order of the High Court[5]. A completed statement in the prescribed form[6] of the number of postal ballot papers issued[7] must be provided by the local returning officer to the Secretary of State[8].

Where any covering envelopes[9] are received by the local returning officer after the close of the poll[10] or any envelopes addressed to postal voters[11] are returned as undelivered too late to be re-addressed, or any spoilt ballot papers[12] are returned too late to enable other postal ballot papers to be issued, the local returning officer must put them unopened into a separate packet, seal up the packet and endorse and retain it and subsequently deal with it in the same manner as the postal voting packets[13].

Any packet or statement retained under the provisions set out above is deemed to have been retained in pursuance of the European parliamentary elections rules[14] and is subject to the usual provisions which govern orders for the production of election documents and the retention and public inspection of election documents[15].

1 As to European parliamentary elections see para 224 et seq ante.
2 As to local returning officers appointed for the purposes of elections to the European Parliament see para 365 ante.
3 Ie the packets referred to in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 37 (see para 418 ante), Sch 2 para 39(6) (see para 420 ante) and Sch 2 para 51 (see para 430 ante).
4 Ibid Sch 2 para 52(1). This is subject to a proviso where the proceedings on the issue and receipt of postal ballot papers are taken together under Sch 2 para 27 (i e where polls are combined: see para 20 ante): see Sch 2 para 52(2).
5 Ibid Sch 2 para 52(1).
6 The prescribed form is set out for the purposes of a European parliamentary election in ibid Sch 2 Appendix of Forms (Form H: statement as to postal ballot papers). The version partly in Welsh and partly in English which must be used at a European parliamentary election in Wales is set out in the European Parliamentary Elections (Welsh Forms) Order 2004, SI 2004/1373, art 6(1)(g), Sch 2 (Form 10: statement as to postal ballot papers, datganiad ynghylch papurau pleidleisio drwy'r post).
7 For the meaning of 'postal ballot paper' see para 412 note 3 ante. As to the issue of postal ballot papers see para 411 et seq ante.
8 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 52(5). Such a statement must identify the local counting areas or parts of such areas within the electoral region for which it is prepared: Sch 2 para 52(6). For the meaning of 'local counting area' see para 230 note 11 ante. As to the electoral areas established for the purposes of European parliamentary elections see para 76 ante. As to the Secretary of State see para 2 ante.
9 For the meaning of 'covering envelope' see para 416 ante.
10 Ie apart from those delivered by the presiding officer in accordance with the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 41(3) (see para 425 ante).
11 For the meaning of 'postal voter' see para 412 note 3 ante.
12 As to spoilt postal ballot papers see para 420 ante.
13 Ie the manner described in European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 52(1) (see the text and notes 1–5 supra): Sch 2 para 52(3).
14 For the meaning of 'European parliamentary elections rules' see para 388 ante.
15 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 52(4). The text refers to the provisions set out in Sch 1 para 60 (see paras 834, 849 post) and Sch 1 para 61 (see para 507 post).

C. RETENTION AND INSPECTION OF ELECTION DOCUMENTS

503. Retention and inspection of documents relating to parliamentary elections. The relevant registration officer[1] must retain for a year all documents relating to a parliamentary election[2] forwarded to him by a returning officer[3]; and then,

unless otherwise directed by an order of the House of Commons or the High Court, the Crown Court or a magistrates' court[4], must cause them to be destroyed[5]. All documents so forwarded (except ballot papers, the completed corresponding number lists[6] and certificates as to employment on the day of the poll[7]) must be open to public inspection[8]. The relevant registration officer must, on request, supply to any person copies of or extracts from such description of the documents open to public inspection as is prescribed by regulations[9]; and a copy of the marked copies of the register, the postal voters list[10], the list of proxies[11] and the proxy postal voters list[12] must, on request, be supplied to a registered party[13] or to a person who was a candidate at the election in relation to the constituency for which he was a candidate[14].

Any person entitled to be supplied[15] with copies of the full register[16] at a particular parliamentary election is also a person entitled[17] to request[18] that a relevant registration officer supply copies of the relevant part[19] of the marked register or lists he is required to keep[20]. The relevant registration officer must supply a copy of the relevant part of the marked register or lists where a request is duly made[21], and if: (1) he is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which it is requested[22]; and (2) he has received payment of a fee[23]. If the relevant registration officer is not satisfied in accordance with head (1) above, he may treat the request for a marked register or list as a request for information in unmarked lists[24], or as a request for the published copy of the full register[25], or both[26].

Any person is entitled to request that the relevant registration officer make available for inspection a copy of any of the marked register or lists or such other documents relating to an election as the relevant registration officer is required by or under any enactment to retain for any period (except ballot papers, completed corresponding number lists and certificates as to employment on the day of the election)[27]. The relevant registration officer must make the documents open to public inspection available for inspection under supervision not later than 10 days[28] after the date of receipt of a request that has been duly made[29]. However, where a request has been made to inspect copies of the marked register or lists[30] and the relevant registration officer is not satisfied that the purposes of the requestor cannot be met by inspection of the full register, he must inform the requestor of his decision to this effect and he must provide the requestor with information concerning the availability of the published full register[31]. The relevant registration officer must, on request, supply free of charge copies of any documents open to public inspection to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists[32].

1 For the meaning of references to the relevant registration officer for these purposes see para 494 note 3 ante.

2 For the meaning of 'parliamentary election' see para 9 ante.

3 As to returning officers for parliamentary elections see para 355 et seq ante; and as to the delivery of documents relating to parliamentary elections see para 494 ante. As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see para 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see para 748 post.

4 As to the production and inspection of documents by order of the House of Commons or the court see paras 834, 849 post.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 57(1) (amended by the Electoral Administration Act 2006 ss 41(1), (5)(a), 70(2), 78(3)). For the purposes of prosecuting an offence under the Representation of the People Act 1983, an application may be made for an order to extend the period of time for which election documents are required to be retained under Sch 1 r 57(1) (as amended): see para 881 post.

The amendments effected by the Electoral Administration Act 2006 s 41(5) have no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with either the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see para 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341,

reg 91 (as amended) (see para 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.

6 As to the completed corresponding number lists see para 410 note 10 ante.

7 As to certificates of employment on duty on the day of the poll see para 402 ante.

8 Representation of the People Act 1983 Sch 1 r 57(2) (substituted by the Electoral Administration Act 2006 s 31(1), (8)).

Regulations may impose conditions in relation to the inspection of any document in pursuance of the Representation of the People Act 1983 Sch 1 r 57(2) (as substituted): Sch 1 r 57(5)(a) (Sch 1 r 57(4)–(9) added by the Electoral Administration Act 2006 s 41(1), (5)(c)). Conditions which may be imposed for these purposes include conditions as to: (1) whether a person may take any copy of a document he is permitted to inspect (Representation of the People Act 1983 Sch 1 r 57(7)(a) (as so added)); (2) the manner in which any such copy is to be taken (Sch 1 r 57(7)(b) (as so added)); and (3) the purposes for which information contained in any document or part of a document which is inspected in pursuance of Sch 1 r 57(2) (as substituted) may be used (Sch 1 r 57(7)(c) (as so added)). As to the regulations made see the text and notes 27–32 infra. As to the making of regulations under the Representation of the People Act 1983 generally see para 24 note 16 ante.

The amendment effected by the Electoral Administration Act 2006 s 31(8) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with either the Representation of the People Act 1983 Sch 1 r 55 (as amended) (as to which see para 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (as to which see para 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the effect of amendments effected by the Electoral Administration Act 2006 s 41(5) see note 5 supra.

9 Representation of the People Act 1983 Sch 1 r 57(3) (substituted by the Electoral Administration Act 2006 s 41(1), (5)(b)).

Regulations may impose conditions in relation to the supply of any document or part of a document in pursuance of the Representation of the People Act 1983 Sch 1 r 57(3) (as substituted): Sch 1 r 57(5)(b) (as added: see note 8 supra). Conditions which may be imposed for these purposes include conditions as to: (1) the purposes for which information contained in any document or part of a document which is supplied in pursuance of Sch 1 r 57(3) (as substituted) may be used (Sch 1 r 57(7)(c) (as so added)); and (2) conditions as to the extent to which a person to whom a document or part of a document has been supplied may: (a) supply that document or part to any other person (Sch 1 r 57(8)(a) (as so added)); (b) disclose to any other person any information contained in the document or part (Sch 1 r 57(8)(b) (as so added)); and (c) use any such information for a purpose other than that for which the document or part was supplied to him (Sch 1 r 57(8)(c) (as so added)). Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part: Sch 1 r 57(6) (as so added). As to the regulations made see the text and notes 15–26 infra.

As to the effect of the amendment effected by the Electoral Administration Act 2006 s 41(5) see note 5 supra.

10 As to the postal voters list see para 378 ante.

11 As to the list of proxies see para 378 ante.

12 As to the proxy postal voters list see para 386 ante.

13 Ie within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22–40) (as amended) (see para 260 ante).

14 Representation of the People Act 1983 Sch 1 r 57(4) (as added: see note 8 supra).

Regulations may impose conditions in relation to the supply of any document or part of a document in pursuance of Sch 1 r 57(4) (as added): Sch 1 r 57(5)(c) (as so added). Conditions which may be imposed for these purposes include conditions as to the extent to which a person to whom a document or part of a document has been supplied may: (1) supply that document or part to any other person (Sch 1 r 57(8)(a) (as so added)); (2) disclose to any other person any information contained in the document or part (Sch 1 r 57(8)(b) (as so added)); and (3) use any such information for a purpose other than that for which the document or part was supplied to him (Sch 1 r 57(8)(c) (as so added)). Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part : Sch 1 r 57(6) (as so added). Regulations may also impose conditions corresponding to those mentioned in Sch 1 r 57(8) (as added) in respect of persons who have obtained a document or part of a document mentioned in Sch 1 r 57(4) (as added) which was supplied to another person in pursuance of Sch 1 r 57(4) (as added) or otherwise than in accordance with regulations made under Sch 1 r 57 (as amended): Sch 1 r 57(9) (as so added). As to the regulations made see the text and notes 15–26 infra.

As to the effect of Sch 1 r 57(4) (as added) see note 5 supra.

15 Ie in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100 (as added) (supply of full register to Electoral Commission: see para 180 ante), reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see para 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see para 182 ante), reg 106 (as added) (supply of full register to registered political parties: see para 182 ante), reg 108 (as added) (supply of full register to certain candidates: see para 182 ante), reg 109 (as added and amended) (supply of full register to police forces and other agencies: see para 182 ante) or reg 113 (as added and amended) (sale of full register to government departments and other bodies: see para 184 ante).

16 For the meaning of 'full register' see para 166 note 2 ante.

17 Ie subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 117 (as added) and reg 119 (as added) (see note 20 infra).

18 A person whose entitlement to request copies of the marked register or lists under ibid reg 117(1) (as added) arises from being in a category of persons covered by reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see para 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see para 182 ante), reg 106 (as added) (supply of full register to registered political parties: see para 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see para 182 ante) before a particular election, is entitled to request those documents regardless of whether he remains in a entitled category after that election for which the marked register or list was prepared: reg 117(2) (regs 116–120 added by SI 2006/2910).

19 Ie within the meaning of the regulations specified in note 15 supra.

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 117(1) (reg 117 as added: see note 18 supra). A request such as is mentioned in the text must be made in writing and must specify which of the marked register or lists (or the relevant part of the register or lists) are requested, state whether a printed copy of the records or lists is requested or a copy in data form, and state the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose: reg 117(3) (as so added). For the meaning of 'data form' see para 177 note 11 ante. Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see para 156 ante), any duty on a relevant registration officer to supply records or lists under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt 7 (regs 116–120) (as added) imposes only a duty to provide that information in the form in which he holds it: reg 116(4) (reg 116 as added: see note 18 supra). As to the Secretary of State see para 2 ante.

A person who obtains a copy of any part of a marked register or list under reg 117 (as added) may use it only for the permitted purposes specified in reg 119(2) (as added), and any conditions specified therein (or which would apply to the use of the full register under whichever of the regulations (specified in note 15 supra) entitled that person to obtain that document) apply to such use: reg 117(6) (as so added). The conditions referred to in reg 117(6) (as added) apply to a person to whom the marked register or list, or any information contained in it (that is not contained in the edited register) has been so supplied or disclosed as they apply to the person to whom those regulations apply: reg 117(7) (as so added). For the meaning of 'edited register' see para 166 note 4 ante. Any person who has obtained or is entitled to obtain a copy of the marked register or lists under reg 117 (as added) may supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein, or procure that a processor processes and supplies to him any copy of the information in the marked register or lists which the processor has obtained under reg 117 (as added), for use in respect of the purposes for which that person is entitled to obtain any such copy or information (as the case may be): reg 117(8) (as so added). The processor may not disclose the information so supplied except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (reg 92 added by SI 2002/1871); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 116(3) (as so added). As to references to an employee of any person who has access to a copy of the full register see para 177 note 6 ante; and for the meaning of 'processor' see para 177 note 11 ante (provisions applied by virtue of reg 116(3) (as so added)). Where a person obtains copies of the information in the marked register or lists in accordance with reg 117(1) (as added), the permitted purpose (as to which see para 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) para 551) or electoral purposes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 119(2) (reg 119 as added: see note 18 supra). In Pt 7 (as added), references to the 'marked register or lists' means any part of the marked copies of the full register, the postal voters list, the list of proxies and the proxy postal voters list, forwarded to the relevant registration officer either under the Representation of the People Act 1983 Sch 1 r 55(1)(b), (c) (as amended) (see para 494 ante) or under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see para 495 ante): reg 116(1) (as so added).

21 Ibid reg 117(4) (as added: see note 18 supra).
22 Ibid reg 117(4)(a) (as added: see note 18 supra).
23 Ibid reg 117(4)(b) (as added: see note 18 supra). The fee referred to in the text must be calculated in accordance with reg 120 (as added): reg 117(4)(b) (as so added). Accordingly, the formula used for this purpose is the same as for calculation of the fee for sale of the full register and notices, set out in reg 111(5) (as added) (as to which see para 184 ante): reg 120 (reg 120 as added: see note 18 supra).
24 Ie under ibid reg 61 (as substituted) (see paras 378, 386 ante).
25 Ie in accordance with ibid reg 102 (as added and amended) (see para 182 ante).
26 Ibid reg 117(5) (as added: see note 18 supra).
27 Ibid reg 118(1) (reg 118 as added: see note 18 supra). The documents specified in the text are referred to in reg 118 (as added) and reg 119 (as added) as the 'documents open to public inspection': reg 118(1) (as so added). A request such as is mentioned in the text must be made in writing and must specify which documents are requested, the purposes for which the information in any document will be used, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose (where the request is to inspect the marked register or lists), who will inspect the documents, the date on which they wish to inspect the documents, and whether they would prefer to inspect the documents in a printed or data form: reg 118(2) (as so added). Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see para 156 ante), any duty on a registration officer to make records or lists available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt 7 (as added) imposes only a duty to provide that information in the form in which he holds it: reg 116(4) (reg 116 as added: see note 18 supra).

A person who obtains a copy of or information in any document open to public inspection under reg 118 (as added) may use it only for the permitted purposes specified in reg 119 (as added), and any conditions specified in reg 119 (as added) or in reg 118(7) (as added), or which would apply to the use of the full register under reg 109 (as added and amended) (supply of full register to police forces and other agencies: see para 182 ante) where such a person has obtained a copy of that document under reg 118(8) (as added) (see the text and note 32 infra), apply to such use: reg 118(5) (as so added). The restrictions on the supply, disclosure and use of the full register in reg 94 (as added) (restrictions on supply of full register and disclosure of information from it by the registration officer and his staff: see para 176 ante) and reg 96 (as added and amended) (restrictions on use of full register or information contained in it: see para 176 ante) apply to documents open to public inspection, as they apply to the full register (reg 119(1) (reg 119 as added: see note 18 supra)), except that, where a person inspects information in accordance with reg 118(1) (as added), the permitted purpose (as to which see para 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) para 551) or electoral purposes (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 119(2) (as so added)).
28 For these purposes, any period of days must be calculated in accordance with ibid reg 56(6) (as amended) and reg 56(7) (see para 372 note 6 ante): reg 116(2) (as added: see note 18 supra).
29 Ibid reg 118(3) (reg 118 as added: see note 18 supra). Where inspection takes place by providing a copy of the records or lists on a computer screen or otherwise in data form, the relevant registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of that copy by electronic or any other means: reg 118(6) (as so added). Subject to reg 118(8) (as added) (see the text and note 32 infra), a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not make copies of any part of it, or record any particulars in it, except that a person who inspects a copy of the marked register or lists may make handwritten notes: reg 118(7) (as so added). The provision allowing copying that usually applies where a document is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) does not apply to any of the documents open to public inspection under reg 118 (as added): reg 7(6) (added by SI 2006/2910).
30 Ie under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 118(2) (as added) (see note 27 supra).
31 Ibid reg 118(4) (as added: see note 18 supra). The text refers to the availability of the published full register for inspection in accordance with reg 43 (as amended) (publication of register: see para 164 ante).
32 Ibid reg 118(8) (as added: see note 18 supra). The text refers to entitlement to be supplied with a copy of the marked register or lists by virtue of being a person to whom reg 109 (as added and amended) (supply of full register to police forces and other agencies: see para 182 ante) applies: reg 118(8) (as so added). Where a copy of any information was supplied in the circumstances to which reg 118(8) (as added) applies, the permitted purpose means the purposes set out in reg 109(4) (as added) (see para 182 ante): reg 119(3) (as added: see note 18 supra). As to further conditions imposed regarding the use of information so obtained see note 27 supra.

504. Retention and inspection of documents relating to certain local elections and local authority mayoral elections. Following a local government election[1], the relevant registration officer[2] must retain for one year all documents relating to such an election forwarded to him[3] by a returning officer[4] and then, unless otherwise directed by an order of a county court, a Crown court, a magistrates' court or an election court[5], must cause them to be destroyed[6]. The relevant registration officer[7] must make available for inspection by members of the public such documents relating to a local government election as he is required by or under any enactment to retain for any period (except ballot papers, the completed corresponding number lists[8] and certificates as to employment on the day of the poll)[9]. On request, the relevant registration officer must supply copies of or extracts from such description of the relevant election documents as is prescribed by regulations[10]; and a copy of the marked copies of the register[11], the postal voters list[12], the list of proxies[13] and the proxy postal voters list[14] must be supplied to a registered party[15] or to a person who was a candidate at the election (in relation to the electoral area for which he was a candidate) or, at an election where a registered party submits a list of candidates[16], to a person who was appointed as an agent for the candidates on the party's list[17].

Any person entitled to be supplied[18] with copies of the full register[19] at a particular local government election is also a person entitled[20] to request[21] that a relevant registration officer supply copies of the relevant part[22] of the marked register or lists he is required to keep[23]. The relevant registration officer must supply a copy of the relevant part of the marked register or lists where a request is duly made[24], and if: (1) he is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which it is requested[25], and (2) he has received payment of a fee[26]. If the relevant registration officer is not satisfied in accordance with head (1) above, he may treat the request for a marked register or list as a request for information in unmarked lists[27], or as a request for the published copy of the full register[28], or both[29].

Any person is entitled to request that the relevant registration officer make available for inspection a copy of any of the marked register or lists or such other documents relating to an election as the relevant registration officer is required by or under any enactment to retain for any period (except ballot papers, completed corresponding number lists and certificates as to employment on the day of the election)[30]. The relevant registration officer must make the documents open to public inspection available for inspection under supervision not later than 10 days[31] after the date of receipt of a request that has been duly made[32]. However, where a request has been made to inspect copies of the marked register or lists[33] and the relevant registration officer is not satisfied that the purposes of the requestor cannot be met by inspection of the full register, he must inform the requestor of his decision to this effect and he must provide the requestor with information concerning the availability of the published full register[34]. The relevant registration officer must, on request, supply free of charge copies of any documents open to public inspection to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists[35].

Following a local authority mayoral election[36], or a poll consequent on a parish meeting taken on the question of appointment to any office[37], the proper officer of the appropriate local authority[38] must retain for six months among the records of the authority all documents relating to an election (or poll, as the case may be) which are forwarded to him by a returning officer[39], and then, unless otherwise directed by an order of the county court or election court, must cause them to be destroyed[40]. The documents so forwarded to the proper officer (except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll[41]) must be open to public inspection at such time and in such manner as may be determined by the authority of

which he is an officer[42]. On request, the proper officer must supply copies of or extracts from the documents open to public inspection on payment of such fees, and subject to such conditions, as may be determined by the authority of which he is an officer[43].

1 Ie a local government election, except an Authority election (as to which see para 505 post). For the meanings of 'Authority election' and 'local government election' see para 10 ante.

2 For the meaning of references to the relevant registration officer for these purposes see para 496 note 3 ante.

3 Ie, in relation to a local government election for a principal area, in pursuance of the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, and, in relation to a local government election for a parish and community council, in pursuance of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305 (see para 496 ante).

4 As to returning officers for local government elections see para 359 et seq ante.

5 As to the production and inspection of documents by order of the court see paras 834, 849 post.

6 Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 54; Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 54. As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see para 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see para 748 post.

7 For these purposes, the relevant registration officer is the registration officer of the local authority in whose area the election is held or, if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints: Electoral Administration Act 2006 s 44(1), (3). An electoral area is, in relation to a local government election, an electoral area within the meaning of the Representation of the People Act 1983 s 203(1) (definition as substituted and amended) (see para 10 ante): Electoral Administration Act 2006 s 44(1), (7)(a). As to the Secretary of State see para 2 ante.

The Electoral Administration Act 2006 ss 42, 44 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

8 A completed corresponding number list is a list prepared under provision corresponding to the Representation of the People Act 1983 s 23(1), Sch 1 r 19A (as added), which is completed in accordance with provision corresponding to Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see para 410 note 10 ante): Electoral Administration Act 2006 s 44(1), (11). As to the effect of this provision see note 7 supra.

9 Ibid ss 42(1)(a), 44(1), (2)(a), (5). The Secretary of State may by regulations impose conditions in relation to the inspection of any document in pursuance of s 42(1)(a): s 42(3)(a). Conditions which may be imposed for these purposes include conditions as to: (1) whether a person may take any copy of a document he is permitted to inspect (s 42(5)(a)); (2) the manner in which any such copy is to be taken (s 42(5)(b)); and (3) the purposes for which information contained in any document or part of a document which is inspected in pursuance of s 42(1)(a) may be used (s 42(5)(c)). As to the regulations made see the text and notes 30–35 infra.

The power to make regulations under s 42 is exercisable by the Secretary of State by statutory instrument and includes power to make different provision for different purposes: s 42(8). However, the Secretary of State must not make such regulations unless he first consults the Electoral Commission (s 42(9)); and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament (s 42(10)). As to the Secretary of State see para 2 ante; and as to the Electoral Commission see para 31 et seq ante.

As to the effect of these provisions see note 7 supra.

10 Ibid s 42(1)(b). The Secretary of State may by regulations impose conditions in relation to the supply of any document or part of a document in pursuance of s 42(1)(b): s 42(3)(b). Conditions which may be imposed for these purposes include conditions as to: (1) the purposes for which information contained in any document or part of a document which is supplied in pursuance of s 42(1)(b) may be used (s 42(5)(c)); and (2) the extent to which a person to whom a document or part of a document has been supplied may: (a) supply that document or part to any other person (s 42(6)(a)); (b) disclose to any other person any information contained in the document or part (s 42(6)(b)); and (c) use any such information for a purpose other than that for which the document or part was supplied to him (s 42(6)(c)). Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part: s 42(4). As to the regulations made see the text and notes 18–29 infra.

As to the effect of these provisions see note 7 supra.

11 For these purposes, the marked register is the copy of the register of electors marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted) (see para 404 ante): Electoral Administration Act 2006 s 44(1), (8). As to the effect of this provision see note 7 supra.

12 For these purposes, a marked copy of the postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see para 425 ante): Electoral Administration Act 2006 s 44(1), (10). As to the effect of this provision see note 7 supra.

13 For these purposes, a marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(e) (as substituted) (see para 404 ante): Electoral Administration Act 2006 s 44(1), (9). As to the effect of this provision see note 7 supra.

14 For these purposes, a marked copy of the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see para 425 ante): Electoral Administration Act 2006 s 44(1), (10). As to the effect of this provision see note 7 supra.

15 Ie within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22–40) (as amended) (see para 260 ante): see the Electoral Administration Act 2006 s 44(1), (6). As to the effect of this provision see note 7 supra.

16 As to such elections see para 345 ante.

17 Electoral Administration Act 2006 s 42(2). The Secretary of State may by regulations impose conditions in relation to the supply of any document or part of a document in pursuance of s 42(2): s 42(3)(c). Conditions which may be imposed for these purposes include conditions as to the extent to which a person to whom a document or part of a document has been supplied may: (1) supply that document or part to any other person (s 42(6)(a)); (2) disclose to any other person any information contained in the document or part (s 42(6)(b)); and (3) use any such information for a purpose other than that for which the document or part was supplied to him (s 42(6)(c)). Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part: s 42(4). Regulations may also impose conditions corresponding to those mentioned in 42(6) in respect of persons who have obtained a document or part of a document mentioned in s 42(2): (a) which was supplied to another person in pursuance of s 42(2); or (b) otherwise than in accordance with regulations under s 42: s 42(7). As to the regulations made see the text and notes 18–29 infra.

As to the effect of these provisions see note 7 supra.

18 Ie in accordance with the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 100 (as added) (supply of full register to Electoral Commission: see para 180 ante), reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see para 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see para 182 ante), reg 106 (as added) (supply of full register to registered political parties: see para 182 ante), reg 108 (as added) (supply of full register to certain candidates: see para 182 ante), reg 109 (as added and amended) (supply of full register to police forces and other agencies: see para 182 ante) or reg 113 (as added and amended) (sale of full register to government departments and other bodies: see para 184 ante).

19 For the meaning of 'full register' see para 166 note 2 ante.

20 Ie subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 117 (as added) and reg 119 (as added) (see note 23 infra).

21 A person whose entitlement to request copies of the marked register or lists under ibid reg 117(1) (as added) arises from being in a category of persons covered by reg 103 (as added) (supply of full register to elected representatives for electoral purposes: see para 182 ante), reg 105 (as added) (supply of full register to local constituency parties: see para 182 ante), reg 106 (as added) (supply of full register to registered political parties: see para 182 ante) or reg 108 (as added) (supply of full register to certain candidates: see para 182 ante) before a particular election, is entitled to request those documents regardless of whether he remains in a entitled category after that election for which the marked register or list was prepared: reg 117(2) (regs 116–120 added by SI 2006/2910).

22 Ie within the meaning of the regulations specified in note 18 supra.

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 117(1) (reg 117 as added: see note 21 supra). A request such as is mentioned in the text must be made in writing and must specify which of the marked register or lists (or the relevant part of the register or lists) are requested, state whether a printed copy of the records or lists is requested or a copy in data form, and state the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose: reg 117(3) (as so added). For the meaning of 'data form' see para 177 note 11 ante. Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see para 156 ante), any duty on a relevant registration officer to supply records or lists

under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt 7 (regs 116–120) (as added) imposes only a duty to provide that information in the form in which he holds it: reg 116(4) (reg 116 as added: see note 21 supra).

A person who obtains a copy of any part of a marked register or list under reg 117 (as added) may use it only for the permitted purposes specified in reg 119(2) (as added), and any conditions specified therein (or which would apply to the use of the full register under whichever of the regulations (specified in note 18 supra) entitled that person to obtain that document) apply to such use: reg 117(6) (as so added). The conditions referred to in reg 117(6) (as added) apply to a person to whom the marked register or list, or any information contained in it (that is not contained in the edited register), has been so supplied or disclosed as they apply to the person to whom those regulations apply: reg 117(7) (as so added). For the meaning of 'edited register' see para 166 note 4 ante. Any person who has obtained or is entitled to obtain a copy of the marked register or lists under reg 117 (as added) may supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein, or procure that a processor processes and supplies to him any copy of the information in the marked register or lists which the processor has obtained under reg 117 (as added), for use in respect of the purposes for which that person is entitled to obtain any such copy or information (as the case may be): reg 117(8) (as so added). The processor may not disclose the information so supplied except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) or any employee of such a person: reg 92(9) (reg 92 added by SI 2002/1871); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 116(3) (as so added). As to references to an employee of any person who has access to a copy of the full register see para 177 note 6 ante; and for the meaning of 'processor' see para 177 note 11 ante (provisions applied by virtue of reg 116(3) (as so added)). Where a person obtains copies of the information in the marked register or lists in accordance with reg 117(1) (as added), the permitted purpose (as to which see para 176 note 18 ante) means either research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) para 551) or electoral purposes: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 119(2) (as added: see note 21 supra). For the meaning of 'marked register or lists' see para 503 note 20 ante.

24 Ibid reg 117(4) (as added: see note 21 supra).

25 Ibid reg 117(4)(a) (as added: see note 21 supra).

26 Ibid reg 117(4)(b) (as added: see note 21 supra). The fee referred to in the text must be calculated in accordance with reg 120 (as added): reg 117(4)(b) (as so added). Accordingly, the formula used for this purpose is the same as for calculation of the fee for sale of the full register and notices, set out in reg 111(5) (as added) (as to which see para 184 ante): reg 120 (as added: see note 21 supra).

27 Ie under ibid reg 61 (as substituted) (see paras 378, 386 ante).

28 Ie in accordance with ibid reg 102 (as added and amended) (see para 182 ante).

29 Ibid reg 117(5) (as added: see note 21 supra).

30 Ibid reg 118(1) (reg 118 as added: see note 21 supra). The documents specified in the text are referred to in reg 118 (as added) and reg 119 (as added) as the 'documents open to public inspection': reg 118(1) (as so added). A request such as is mentioned in the text must be made in writing and must specify which documents are requested, the purposes for which the information in any document will be used, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose (where the request is to inspect the marked register or lists), who will inspect the documents, the date on which they wish to inspect the documents, and whether they would prefer to inspect the documents in a printed or data form: reg 118(2) (as so added). Subject to any direction by the Secretary of State under the Representation of the People Act 1983 s 52(1) (as amended) (discharge of registration duties: see para 156 ante), any duty on a registration officer to make records or lists available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt 7 (as added) imposes only a duty to provide that information in the form in which he holds it: reg 116(4) (as added: see note 21 supra).

A person who obtains a copy of or information in any document open to public inspection under reg 118 (as added) may use it only for the permitted purposes specified in reg 119 (as added), and any conditions specified in reg 118(7) (as added) or in reg 119 (as added), or which would apply to the use of the full register under reg 109 (as added and amended) (supply of full register to police forces and other agencies: see para 182 ante) where such a person has obtained a copy of that document under reg 118(8) (as added) (see the text and note 35 infra), apply to such use: reg 118(5) (as so added). The restrictions on the supply, disclosure and use of the full register in reg 94 (as added) (restrictions on supply of full register and disclosure of information from it by the registration officer and his staff: see para 176 ante) and reg 96 (as added and amended) (restrictions on use of full register or information contained in it: see para 176 ante) apply to documents open to public inspection as they apply to the full register (reg 119(1) (reg 119 as added: see note 21 supra)), except that, where a person inspects information in accordance with reg 118(1) (as added), the permitted purpose (as to which see para 176 note 18 ante) means either

research purposes within the meaning of that term in the Data Protection Act 1998 s 33 (see CONFIDENCE AND DATA PROTECTION vol 8(1) (2003 Reissue) para 551) or electoral purposes (reg 119(2) (as so added)).

31 For these purposes, any period of days must be calculated in accordance with ibid reg 56(6) (as amended) and reg 56(7) (see para 372 note 6 ante): reg 116(2) (as added: see note 21 supra).

32 Ibid reg 118(3) (reg 118 as added: see note 21 supra). Where inspection takes place by providing a copy of the records or lists on a computer screen or otherwise in data form, the relevant registration officer must ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to search it by electronic means by reference to the name of any person or to copy or transmit any part of that copy by electronic or any other means: reg 118(6) (as so added). Subject to reg 118(8) (as added) (see the text and note 35 infra), a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not make copies of any part of it, or record any particulars in it, except that a person who inspects a copy of the marked register or lists may make handwritten notes: reg 118(7) (as so added). The provision allowing copying that usually applies where a document is made available for inspection under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) does not apply to any of the documents open to public inspection under reg 118 (as added): reg 7(6) (added by SI 2006/2910).

33 Ie under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 118(2) (as added) (see note 30 supra).

34 Ibid reg 118(4) (as added: see note 21 supra). The text refers to the availability of the published full register for inspection in accordance with reg 43 (as amended) (publication of register: see para 164 ante).

35 Ibid reg 118(8) (as added: see note 21 supra). The text refers to entitlement to be supplied with a copy of the marked register or lists by virtue of being a person to whom reg 109 (as added and amended) (supply of full register to police forces and other agencies: see para 182 ante) applies: reg 118(8) (as so added). Where a copy of any information was supplied in the circumstances to which reg 118(8) (as added) applies, the permitted purpose means the purposes set out in reg 109(4) (as added) (see para 182 ante): reg 119(3) (reg 119 as added: see note 21 supra). As to further conditions imposed regarding the use of information so obtained see note 32 supra.

36 As to elections for the return of an elected local authority mayor see para 205 et seq ante.

37 At polls consequent on a parish meeting involving an appointment to office see para 207 et seq ante.

38 At a poll consequent on a parish meeting involving an appointment to office, the proper officer is the council of the district in which the parish is situate: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 36(1). In the case of a local authority mayoral election, it is the local authority concerned: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 53(1). For the meaning of 'proper officer' generally see para 155 note 2 ante; but for the purposes of a poll consequent on a parish meeting, any references to a proper officer of a council means any officer appointed for the purpose by that council (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 38(3)). For the meaning of 'local authority' for the purposes of a local authority mayoral election see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.

39 As to the returning officer at a poll consequent on parish meeting see para 361 ante; and as to returning officers for local authority mayoral elections see para 359 et seq ante. As to the delivery of documents relating to such elections or polls see para 496 ante.

40 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 53(1).

41 As to certificates of employment on duty on the day of the poll see para 402 ante. There are no certificates as to employment on duty on the day of the poll at a poll consequent on a parish meeting, and accordingly the reference to such certificates is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(2).

42 Ibid Schedule r 36(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 53(2).

43 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 53(3).

505. Retention and inspection of documents relating to London Authority elections. The Greater London returning officer ('GLRO')[1] must retain or cause to be retained for six months all documents relating to a London Authority election[2] placed under his control[3] by a constituency returning officer[4]; and then, unless otherwise directed by an order of a county court or an election court, he must cause them to be destroyed[5]. Those documents (except ballot papers, counterfoils and certificates as to

employment on duty on the day of the poll[6]) must be open to public inspection at such time and in such manner as the Greater London Authority[7] may determine, until they are destroyed[8].

The constituency returning officer must keep for six months the documents which have been retained by him[9] and then, unless otherwise directed by an order of a county court or an election court, he must cause them to be destroyed[10]. Those documents, until they are destroyed, must be open to public inspection at all reasonable hours[11].

On request, the GLRO and the constituency returning officer must supply copies of or extracts from such of the documents in their possession as are open to public inspection on payment of such fees and subject to such conditions as may be determined by the Greater London Authority[12].

As from a day to be appointed[13], the relevant registration officer[14] must make available for inspection by members of the public such documents relating to a London Authority election as he is required by or under any enactment to retain for any period (except ballot papers, the completed corresponding number lists[15] and certificates as to employment on the day of the poll)[16]. On request, the relevant registration officer must supply copies of or extracts from such description of the documents as is prescribed by regulations[17]; and a copy of the marked copies of the register[18], the postal voters list[19], the list of proxies[20] and the proxy postal voters list[21] must be supplied to a registered party[22] or to a person who was a candidate at the election (in relation to the electoral area for which he was a candidate) or, in the case of an election at which a registered party submits a list of candidates, to a person who was appointed as an agent for the candidates on the party's list[23]. The Secretary of State may by regulations impose conditions in relation to: (1) the inspection of any relevant election document which must be made available for public inspection[24]; (2) the supply of any relevant election document or part of any such document which must be supplied on request[25]; and (3) the supply of any relevant election document or part of a document which must be supplied on request to a registered party or a person who was a candidate or an agent for party list candidates[26]. Conditions which may be imposed for the purposes of head (1) or head (2) above include conditions as to whether a person may take any copy of a document he is permitted to inspect, the manner in which any such copy is to be taken and the purposes for which information contained in any document or part of a document which is inspected or supplied for the purposes of public inspection may be used[27]. Conditions which may be imposed for the purposes of head (2) or head (3) above include conditions as to the extent to which a person to whom a document or part of a document has been supplied may supply that document or part to any other person, disclose to any other person any information contained in the document or part and use any such information for a purpose other than that for which the document or part was supplied to him[28]. Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part[29].

1 For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

2 For the meaning of 'Authority election' see para 10 ante.

3 Ie in pursuance of the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427 (as amended). As to the documents so transferred see para 497 ante.

4 For the meaning of 'constituency returning officer' in this context see para 218 note 8 ante.

5 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 50(1), Sch 2 r 53(1), Sch 3 r 55(1) (Sch 1 r 50(1), Sch 2 r 53(1), Sch 3 r 55(1) all amended by SI 2004/227). As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see para 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see para 748 post.

6 As to certificates of employment on duty on the day of the poll see para 402 ante.

7 As to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq.

8 Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 50(2), Sch 2 r 53(2), Sch 3 r 55(2).

9 Ie in accordance with, in relation to a constituency members election, ibid Sch 1 r 48(2) (as amended), in relation to a London members' election, Sch 2 r 51 (as amended) or, in relation to a London mayoral election, Sch 3 r 53(2) (as amended), as the case may be (see para 497 ante).

10 Ibid Sch 1 r 50(3), Sch 2 r 53(3), Sch 3 r 55(3).

11 Ibid Sch 1 r 50(4), Sch 2 r 53(4), Sch 3 r 55(4).

12 Ibid Sch 1 r 50(5), Sch 2 r 53(5) (amended by SI 2004/227), Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 3 r 55(5).

13 The Electoral Administration Act 2006 ss 42, 44 have effect as from a day to be appointed under s 77(2). At the date at which this volume states the law, no such day had been appointed for these purposes, although ss 42, 44 have been commenced in relation to any local government election as defined by the Representation of the People Act 1983 s 203(1) (definition as amended) (see para 10 ante) other than an Authority election (as so defined) (see para 10 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1 para 15.

14 For these purposes, the relevant registration officer is the registration officer of the local authority in whose area the election is held or, if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints: Electoral Administration Act 2006 s 44(1), (3). An electoral area is, in relation to a local government election, an electoral area within the meaning of the Representation of the People Act 1983 s 203(1) (definition as substituted and amended) (see para 10 ante): Electoral Administration Act 2006 s 44(1), (7)(a). See note 13 supra. As to the Secretary of State see para 2 ante.

15 A completed corresponding number list is a list prepared under provision corresponding to the Representation of the People Act 1983 s 23(1), Sch 1 r 19A (as added), which is completed in accordance with provision corresponding to Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see para 410 note 10 ante): Electoral Administration Act 2006 s 44(1), (11). See note 13 supra.

16 Ibid ss 42(1)(a), 44(1), (2)(a), (5). See note 13 supra.

17 Ibid s 42(1)(b). The power to make regulations under s 42 is exercisable by the Secretary of State by statutory instrument and includes power to make different provision for different purposes: s 42(8). However, the Secretary of State must not make such regulations unless he first consults the Electoral Commission (s 42(9)); and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament (s 42(10)). See note 13 supra. As to the Electoral Commission see para 31 et seq ante.

18 The marked register is the copy of the register of electors marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted) (see para 404 ante): Electoral Administration Act 2006 s 44(1), (8). See note 13 supra.

19 A marked copy of the postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see para 425 ante): Electoral Administration Act 2006 s 44(1), (10). See note 13 supra.

20 A marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(e) (as substituted) (see para 404 ante): Electoral Administration Act 2006 s 44(1), (9). See note 13 supra.

21 A marked copy of the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see para 425 ante): Electoral Administration Act 2006 s 44(1), (10). See note 13 supra.

22 Ie within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22–40) (as amended) (see para 260 ante): see the Electoral Administration Act 2006 s 44(1), (6). See note 13 supra.

23 Ibid s 42(2). See note 13 supra. The election of London members of the London Assembly is an election at which a registered party submits a list of candidates: see para 345 ante.

24 Ibid s 42(3)(a). The text refers to inspection in pursuance of s 42(1)(a) (see the text and notes 14–16 supra). See note 13 supra.

25 Ibid s 42(3)(b). The text refers to supply in pursuance of s 42(1)(b) (see the text and note 17 supra). See note 13 supra.

26 Ibid s 42(3)(c). The text refers to supply in pursuance of s 42(2) (see the text and notes 18–23 supra). See note 13 supra.

27 Ibid s 42(5). See note 13 supra.

28 Ibid s 42(6). Regulations may also impose conditions corresponding to those mentioned in 42(6) in respect of persons who have obtained a document or part of a document mentioned in s 42(2) (see the text and notes 18–23 supra): (1) which was supplied to another person in pursuance of s 42(2); or (2) otherwise than in accordance with regulations under s 42: s 42(7). See note 13 supra.

29 Ibid s 42(4). See note 13 supra.

506. Retention and inspection of documents relating to elections to the National Assembly for Wales. The National Assembly for Wales must retain for a year all documents relating to a Welsh Assembly election[1] forwarded to it[2] by a constituency returning officer[3]; and then, unless otherwise directed by order of the High Court, it must cause them to be destroyed[4]. All such documents (except ballot papers, counterfoils and certificates as to employment on the day of the poll[5]) are to be open to public inspection at such time and subject to such conditions as may be sanctioned by the Assembly[6]. On request, the Assembly must supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as it may sanction[7].

The relevant registration officer[8] must make available for inspection by members of the public such documents relating to an election to the National Assembly for Wales as he is required by or under any enactment to retain for any period (except ballot papers, the completed corresponding number lists[9] and certificates as to employment on the day of the poll)[10]. On request, the relevant registration officer must supply copies of or extracts from such description of the documents as is prescribed by regulations[11]; and a copy of the marked copies of the register[12], the postal voters list[13], the list of proxies[14] and the proxy postal voters list[15] must be supplied to a registered party[16] or to a person who was a candidate at the election (in relation to the electoral area for which he was a candidate), or, in the case of an election at which a registered party submits a list of candidates, to a person who was appointed as an agent for the candidates on the party's list[17]. The Secretary of State may by regulations impose conditions in relation to: (1) the inspection of any relevant election document which must be made available for public inspection[18]; (2) the supply of any relevant election document or part of any such document which must be supplied on request[19]; and (3) the supply of any relevant election document or part of a document which must be supplied on request to a registered party or a person who was a candidate or an agent for party list candidates[20]. Conditions which may be imposed for the purposes of head (1) or head (2) above include conditions as to whether a person may take any copy of a document he is permitted to inspect, the manner in which any such copy is to be taken and the purposes for which information contained in any document or part of a document which is inspected or supplied for the purposes of public inspection may be used[21]. Conditions which may be imposed for the purposes of head (2) or head (3) above include conditions as to the extent to which a person to whom a document or part of a document has been supplied may supply that document or part to any other person, disclose to any other person any information contained in the document or part and use any such information for a purpose other than that for which the document or part was supplied to him[22]. Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part[23].

1 For the meaning of 'Assembly election' in this context see para 3 note 1 ante.

2 Ie forwarded in pursuance of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 (as amended). As to the delivery of documents relating to elections to the National Assembly for Wales see para 499 ante.

3 For the meaning of 'constituency returning officer' in this context see para 18 note 2 ante.

4 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 64(1). As to the production and inspection of documents by order of the court see paras 834, 849 post. As to the penalty for breach of duty by persons responsible for used ballot papers and other documents see para 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see para 748 post.

5 As to certificates of employment on duty on the day of the poll see para 402 ante.

6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 64(2).

7 Ibid Sch 5 para 64(3).

8 For these purposes, the relevant registration officer is the registration officer of the local authority in whose area the election is held or, if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints: Electoral Administration Act 2006 s 44(1), (3). An electoral area is, in relation to an election to the National Assembly for Wales, an Assembly constituency or an Assembly electoral region within the meaning of the Government of Wales Act 2006 s 2: Electoral Administration Act 2006 s 44(1), (7)(b). For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see para 3 note 1 ante. As to the Secretary of State see para 2 ante.

The Electoral Administration Act 2006 ss 42, 44 have effect in relation to any election to the National Assembly for Wales under either the Government of Wales Act 1998 Pt I (ss 1–20) (prospectively repealed) or the Government of Wales Act 2006 Pt 1 (ss 1–44), (whose provisions are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3: see para 12 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1 para 15(a)(iv). However, the Electoral Administration Act 2006 ss 42, 44 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 A completed corresponding number list is a list prepared under provision corresponding to the Representation of the People Act 1983 s 23(1), Sch 1 r 19A (as added), which is completed in accordance with provision corresponding to Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see para 410 note 10 ante): Electoral Administration Act 2006 s 44(1), (11). As to the effect of these provisions see note 8 supra.

10 Ibid ss 42(1)(a), 44(1), (2)(a), (5). As to the effect of these provisions see note 8 supra.

11 Ibid s 42(1)(b). The power to make regulations under s 42 is exercisable by the Secretary of State by statutory instrument and includes power to make different provision for different purposes: s 42(8). However, the Secretary of State must not make such regulations unless he first consults the Electoral Commission (s 42(9)); and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament (s 42(10)). As to the effect of these provisions see note 8 supra. As to the Secretary of State see para 2 ante; and as to the Electoral Commission see para 31 et seq ante.

12 The marked register is the copy of the register of electors marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted) (see para 404 ante): Electoral Administration Act 2006 s 44(1), (8). As to the effect of these provisions see note 8 supra.

13 A marked copy of the postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see para 425 ante): Electoral Administration Act 2006 s 44(1), (10). As to the effect of these provisions see note 8 supra.

14 A marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(e) (as substituted) (see para 404 ante): Electoral Administration Act 2006 s 44(1), (9). As to the effect of these provisions see note 8 supra.

15 A marked copy of the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see para 425 ante): Electoral Administration Act 2006 s 44(1), (10). As to the effect of these provisions see note 8 supra.

16 Ie within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22–40) (as amended) (see para 260 ante): see the Electoral Administration Act 2006 s 44(1), (6). As to the effect of these provisions see note 8 supra.

17 Ibid s 42(2). As to the effect of this provision see note 8 supra. A Welsh Assembly regional election is an election at which a registered party submits a list of candidates: see para 345 ante.

18 Ibid s 42(3)(a). The text refers to inspection in pursuance of s 42(1)(a) (see the text and notes 8–10 supra). As to the effect of this provision see note 8 supra.

19 Ibid s 42(3)(b). The text refers to supply in pursuance of s 42(1)(b) (see the text and note 11 supra). As to the effect of this provision see note 8 supra.

20 Ibid s 42(3)(c). The text refers to supply in pursuance of s 42(2) (see the text and notes 12–17 supra). As to the effect of this provision see note 8 supra.

21 Ibid s 42(5). As to the effect of this provision see note 8 supra.

22 Ibid s 42(6). Regulations may also impose conditions corresponding to those mentioned in 42(6) in respect of persons who have obtained a document or part of a document mentioned in s 42(2) (see the

text and notes 12–17 supra): (1) which was supplied to another person in pursuance of s 42(2); or (2) otherwise than in accordance with regulations under s 42: s 42(7). As to the effect of these provisions see note 8 supra.

23 Ibid s 42(4). As to the effect of this provision see note 8 supra.

507. Retention and inspection of documents relating to European parliamentary elections. The local returning officer at a European parliamentary election[1] must retain for a year all documents relating to such an election which he is directed to retain under the European parliamentary elections rules[2]; and then, unless otherwise directed by order of the High Court, he must cause them to be destroyed[3]. All such documents (except ballot papers, counterfoils and certificates as to employment on the day of the poll[4]) are to be open to public inspection at such time and subject to such conditions as may be prescribed by the local returning officer[5]. On request, the local returning officer must supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the local authority by which he is employed[6].

As from a day to be appointed[7], the relevant registration officer[8] must make available for inspection by members of the public such documents relating to an election to the European Parliament as he is required by or under any enactment to retain for any period (except ballot papers, the completed corresponding number lists[9] and certificates as to employment on the day of the poll)[10]. On request, the relevant registration officer must supply copies of or extracts from such description of the documents as is prescribed by regulations[11]; and a copy of the marked copies of the register[12], the postal voters list[13], the list of proxies[14] and the proxy postal voters list[15] must be supplied to a registered party[16] or to a person who was a candidate at the election (in relation to the electoral area for which he was a candidate) or, in the case of an election at which a registered party submits a list of candidates, to a person who was appointed as an agent for the candidates on the party's list[17]. The Secretary of State may by regulations impose conditions in relation to: (1) the inspection of any relevant election document which must be made available for public inspection[18]; (2) the supply of any relevant election document or part of any such document which must be supplied on request[19]; and (3) the supply of any relevant election document or part of a document which must be supplied on request to a registered party or a person who was a candidate or an agent for party list candidates[20]. Conditions which may be imposed for the purposes of head (1) or head (2) above include conditions as to whether a person may take any copy of a document he is permitted to inspect, the manner in which any such copy is to be taken and the purposes for which information contained in any document or part of a document which is inspected or supplied for the purposes of public inspection may be used[21]. Conditions which may be imposed for the purposes of head (2) or head (3) above include conditions as to the extent to which a person to whom a document or part of a document has been supplied may supply that document or part to any other person, disclose to any other person any information contained in the document or part and use any such information for a purpose other than that for which the document or part was supplied to him[22]. Regulations may also make provision as to the form in which any such document or part is supplied and for the payment of a fee in respect of the supply of a document or part[23].

1 As to European parliamentary elections see para 224 et seq ante; and as to local returning officers appointed for the purposes of European parliamentary elections see para 365 et seq ante.

2 For the meaning of 'European parliamentary elections rules' see para 388 ante. The text refers to all documents relating to an election to which the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 59 applies (see para 501 ante).

3 Ibid Sch 1 para 61(1). As to the production and inspection of documents by order of the court see paras 834, 849 post. As to the penalty for breach of duty by persons responsible for used ballot papers and

other documents see para 740 post; and as to offences which relate to persons who interfere with access to or the control of election documents see para 748 post.

4 As to certificates of employment on duty on the day of the poll see para 402 ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 61(2).

6 Ibid Sch 1 para 61(3).

7 The Electoral Administration Act 2006 ss 42, 44 have effect as from a day to be appointed under s 77(2). At the date at which this volume states the law, no such day had been appointed.

8 For these purposes, the relevant registration officer is the registration officer of the local authority in whose area the election is held or, if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints: ibid s 44(1), (3). An electoral area is, in relation to an election to the European Parliament, an electoral region within the meaning of the European Parliamentary Elections Act 2002 s 1 (as substituted and amended) (electoral regions and number of MEPs: see para 76 ante): Electoral Administration Act 2006 s 44(1), (7)(e). See note 7 supra. As to the Secretary of State see para 2 ante.

9 A completed corresponding number list is a list prepared under provision corresponding to the Representation of the People Act 1983 s 23(1), Sch 1 r 19A (as added), which is completed in accordance with provision corresponding to Sch 1 r 37(1)(b) (as substituted) and Sch 1 r 37(1)(d) (prospectively substituted) (see para 410 note 10 ante): Electoral Administration Act 2006 s 44(1), (11). See note 7 supra.

10 Ibid ss 42(1)(a), 44(1), (2)(a), (5). See note 7 supra.

11 Ibid s 42(1)(b). The power to make regulations under s 42 is exercisable by the Secretary of State by statutory instrument and includes power to make different provision for different purposes: s 42(8). However, the Secretary of State must not make such regulations unless he first consults the Electoral Commission (s 42(9)); and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament (s 42(10)). See note 7 supra. As to the Electoral Commission see para 31 et seq ante.

12 The marked register is the copy of the register of electors marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(c) (as substituted) (see para 404 ante): Electoral Administration Act 2006 s 44(1), (8). See note 7 supra.

13 A marked copy of the postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see para 425 ante): Electoral Administration Act 2006 s 44(1), (10). See note 7 supra.

14 A marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 37(1)(e) (as substituted) (see para 404 ante): Electoral Administration Act 2006 s 44(1), (9). See note 7 supra.

15 A marked copy of the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to the Representation of the People Act 1983 Sch 1 r 31A(1) (as added) (see para 425 ante): Electoral Administration Act 2006 s 44(1), (10). See note 7 supra.

16 Ie within the meaning of the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22–40) (as amended) (see para 260 ante): see the Electoral Administration Act 2006 s 44(1), (6). See note 7 supra.

17 Ibid s 42(2). See note 7 supra. A European parliamentary election is an election at which a registered party submits a list of candidates: see para 345 ante.

18 Ibid s 42(3)(a). The text refers to inspection in pursuance of s 42(1)(a) (see the text and notes 8–10 supra). See note 7 supra.

19 Ibid s 42(3)(b). The text refers to supply in pursuance of s 42(1)(b) (see the text and note 11 supra). See note 7 supra.

20 Ibid s 42(3)(c). The text refers to supply in pursuance of s 42(2) (see the text and notes 12–17 supra). See note 7 supra.

21 Ibid s 42(5). See note 7 supra.

22 Ibid s 42(6). Regulations may also impose conditions corresponding to those mentioned in 42(6) in respect of persons who have obtained a document or part of a document mentioned in s 42(2) (see the text and notes 12–17 supra): (1) which was supplied to another person in pursuance of s 42(2); or (2) otherwise than in accordance with regulations under s 42: s 42(7). See note 7 supra.

23 Ibid s 42(4). See note 7 supra.

508. Orders for production or inspection of documents. Documents relating to elections which have been retained may be produced or inspected by order of the House of Commons or by order of the election court[1].

1 See paras 834, 849 post.

(x) Countermand or Abandonment of Poll on Death of Candidate

509. Countermand or abandonment of poll at a parliamentary election on the death of independent or party candidate or Speaker of House of Commons seeking re-election. If, at a contested parliamentary election[1], proof is given to the satisfaction of the returning officer[2] before the result of the election is declared that one of the persons named or to be named in the ballot papers as an independent candidate has died[3], then the parliamentary election rules[4] apply to the election as if the candidate had not died[5], but subject to the following provisions[6]. If only two persons are shown as standing nominated in the statement of persons nominated[7], the returning officer must: (1) if polling has not begun, countermand the notice of poll[8]; (2) if polling has begun, direct that the poll is abandoned[9]; or (3) treat the election as an uncontested election[10]. However, if the majority of votes given at an election where an independent candidate has died is given to the deceased independent candidate[11], the usual provisions as to declaration of the result do not apply[12] and the returning officer must: (a) declare that the majority of votes has been given to the deceased candidate[13]; (b) declare that no member is returned[14]; and (c) give public notice[15] of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[16]. If after the counting of the votes (including any recount) is completed at an election where an independent candidate has died, an equality of votes is found to exist between any candidates[17], and any of those candidates is a deceased candidate, the deceased candidate must be ignored[18]. If, at a contested parliamentary election, proof is given to the satisfaction of the returning officer before the result of the election is declared that one of the persons named or to be named as a candidate in the ballot paper has died[19], and that person is standing in the name of a registered political party[20], the returning officer must countermand notice of the poll[21] or, if polling has begun, direct that the poll be abandoned[22]. If, at a contested parliamentary election, one of the candidates is the Speaker of the House of Commons seeking re-election[23] and proof is given to the returning officer's satisfaction before the result of the election is declared that that candidate has died[24], the returning officer must countermand notice of the poll[25] or, if polling has begun, direct that the poll be abandoned[26].

Where a poll is abandoned by reason of an independent candidate's death[27] or by reason of the death of a party candidate[28] or following the death of the speaker of House of Commons seeking re-election[29], the presiding officer[30] at a polling station must take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and other documents as he is required to take on the close of the poll[31]. The returning officer must dispose of ballot papers and other documents in his possession as he is required to do on the completion in due course of the counting of the votes[32]. However, it is not necessary for any ballot paper account to be prepared or verified[33] and the returning officer, without taking any step or further step for the counting of the ballot papers or of the votes[34], must seal up all the ballot papers, whether the votes on them have been counted or not, and counted and rejected ballot papers need not be sealed up in separate packets[35]. The provisions of the parliamentary election rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply to any such documents relating to a poll abandoned by reason of the death of a candidate[36]. Ballot papers on which the votes were neither counted nor rejected must, however, be treated as counted ballot papers[37]; and no order is to be made for the production or inspection of any ballot papers[38] or for the opening of a sealed packet of the completed corresponding number lists[39] or of certificates as to employment on duty on the day of the poll[40] unless the order is made by a court with reference to a prosecution[41].

Where the poll at an election is taken together with the poll at another election, special provision is made and neither the countermand of the poll at one election nor the direction that polling be abandoned at that election is to affect the poll at the other election[42].

1 For the meaning of 'parliamentary election' see para 9 ante. As to contested elections see para 389 et seq ante.

2 As to returning officers for parliamentary elections see para 355 et seq ante.

3 Representation of the People Act 1983 Sch 1 r 60(1) (Sch 1 r 60 substituted, and Sch 1 rr 61–65 added, by the Electoral Administration Act 2006 s 24). For these purposes, a person is named or to be named on the ballot papers as an independent candidate if the description (if any) on his nomination paper is not authorised as mentioned in the Representation of the People Act 1983 Sch 1 r 6A(1) (as added and amended) (see para 263 ante) or Sch 1 r 6A(1B) (as added) (see para 263 ante): Sch 1 r 60(1), (5) (as so substituted). As to the time at which the returning officer can be satisfied that a candidate satisfies the test set out in the text see para 270 ante.

Any amendment effected by the Electoral Administration Act 2006 s 24 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 For the meaning of the 'parliamentary election rules' see para 388 ante.

5 However, the following provisions of the parliamentary election rules do not apply in relation to the deceased candidate, namely the Representation of the People Act 1983 Sch 1 r 32(1)(c), (d) (as substituted) (admission to polling station: see para 402 ante), Sch 1 r 44(2)(b)–(d) (as amended) (attendance at count: see para 431 ante) and Sch 1 r 53(4) (as amended) (forfeiture of deposit: see para 480 ante): Sch 1 r 60(1), (3) (as substituted: see note 3 supra). As to the effect of these provisions see note 3 supra.

6 Ibid Sch 1 r 60(1), (2) (as substituted: see note 3 supra). The parliamentary election rules apply as mentioned in the text subject to Sch 1 r 60 (as substituted) and Sch 1 rr 61–62 (as added) (see the text and notes 7–18 infra). As to the effect of these provisions see note 3 supra.

7 As to the statement of persons nominated see para 272 ante.

8 Representation of the People Act 1983 Sch 1 r 60(1), (4)(a) (as substituted: see note 3 supra). As to the effect of these provisions see note 3 supra. As to a fresh election following the countermand or abandonment of the poll on the death of an independent candidate see para 512 post.

9 Ibid Sch 1 r 60(1), (4)(b) (as substituted: see note 3 supra). See note 8 supra. As to the effect of these provisions see note 3 supra.

10 Ibid Sch 1 r 60(1), (4)(c) (as substituted: see note 3 supra). Head (3) in the text is subject to Sch 1 r 65 (as added) (see the text and notes 27–41 infra). As to the effect of these provisions see note 3 supra.

11 Ibid Sch 1 r 61(1) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.

12 Ie ibid Sch 1 r 50 (see para 478 ante) does not apply.

13 Ibid Sch 1 r 61(1), (2)(a) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

14 Ibid Sch 1 r 61(1), (2)(b) (as added: see note 3 supra). The rule regarding forfeiture of deposit (i e Sch 1 r 53(4) (as amended): see para 480 ante) does not apply in relation to the remaining candidates: Sch 1 r 61(1), (3) (as so added). As to the commencement of these provisions see note 3 supra.

15 As to the giving of public notice by returning officers for parliamentary elections see para 355 ante.

16 Representation of the People Act 1983 Sch 1 r 61(1), (2)(c) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra. As to the statement of rejected ballot papers at a parliamentary election see para 438 ante.

17 Ie if ibid Sch 1 r 49 applies (see para 441 ante).

18 Ibid Sch 1 r 62 (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

19 Ibid Sch 1 r 63(1)(a) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.

20 Ibid Sch 1 r 63(1)(b) (as added: see note 3 supra). For these purposes, a person stands in the name of a registered political party if his nomination paper contains a description which is authorised as mentioned in Sch 1 r 6A(1) (as added and amended) or Sch 1 r 6A(1B) (as added) (see para 263 ante) (Sch 1 r 63(10)(a) (as so added)); and a registered political party is a party which is registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22–40) (as amended) (see para 260 ante) (Representation of the People Act 1983 Sch 1 r 63(10)(b) (as so added)). As to the commencement of these provisions see note 3 supra.

21 Ibid Sch 1 r 63(2)(a) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra. As to a fresh election following the countermand or abandonment of the poll on the death of a party candidate see para 512 post.
22 Ibid Sch 1 r 63(2)(b) (as added: see note 3 supra). See note 21 supra. As to the commencement of this provision see note 3 supra.
23 Ibid Sch 1 r 64(1)(a) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
24 Ibid Sch 1 r 64(1)(b) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
25 Ibid Sch 1 r 64(2)(a) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra. As to a fresh election following the countermand or abandonment of the poll on the death of the Speaker of the House of Commons seeking re-election see para 512 post.
26 Ibid Sch 1 r 64(2)(b) (as added: see note 3 supra). See note 25 supra. As to the commencement of this provision see note 3 supra.
27 Ie in pursuance of ibid Sch 1 r 60(4)(b) (as substituted) (see the text and note 9 supra): Sch 1 r 65(1)(a) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.
28 Ie in pursuance of ibid Sch 1 r 63(2)(b) (as added) (see the text and note 22 supra): Sch 1 r 65(1)(b) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.
29 Ie in pursuance of ibid Sch 1 r 64(2)(b) (as added) (see the text and note 26 supra): Sch 1 r 65(1)(b) (as added: see note 3 supra). As to the commencement of these provisions see note 3 supra.
30 As to the appointment of presiding officers and their clerks see para 398 ante.
31 Representation of the People Act 1983 Sch 1 r 65(2) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra. As to the usual procedure on the close of poll see para 410 ante.
32 Ibid Sch 1 r 65(3) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
33 Ibid Sch 1 r 65(4) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra. As to the preparation and verification of the ballot paper accounts see para 410 et seq ante.
34 Ibid Sch 1 r 65(5) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
35 Ibid Sch 1 r 65(6) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
36 Ibid Sch 1 r 65(7) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
37 Ibid Sch 1 r 65(8) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
38 Ibid Sch 1 r 65(9)(a) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
39 As to completed corresponding number lists see para 410 note 10 ante.
40 As to certificates of employment on duty on the day of the poll see para 402 ante.
41 Representation of the People Act 1983 Sch 1 r 65(9) (as added: see note 3 supra). As to the commencement of this provision see note 3 supra.
42 See para 16 et seq ante.

510. Countermand or abandonment of poll on death of candidate at an election which is not a parliamentary election. If, at a contested election which is not a parliamentary election[1], proof is given to the satisfaction of the returning officer[2] before the result of the election is declared[3] that one of the persons named or to be named as a candidate in the ballot papers[4] has died[5], then, except in the case of a Welsh Assembly regional election where the election continues to remain contested[6], the returning officer must countermand notice of the poll or, if polling has begun, he must direct that the poll be abandoned[7]. Where such a poll is abandoned by reason of a candidate's death, the proceedings at or consequent on that poll must be interrupted, no further ballot papers are to be issued, and the presiding officer[8] at any polling station must take the like steps (so far as not already taken) for the delivery to the returning officer[9] of ballot boxes and other documents as he is required to take on the close of the poll in due course[10].

The returning officer at such an election must dispose of ballot papers and other documents in his possession as he is required to do on the completion in due course of

the counting of the votes[11]. However, it is not necessary for any ballot paper account to be prepared or verified[12] and the returning officer, without taking any step or further step for the counting of the ballot papers or of the votes[13], must seal up all the ballot papers, whether the votes on them have been counted or not, and counted and rejected ballot papers need not be sealed up in separate packets[14]. The provisions as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at such an election (or to a poll consequent on a parish meeting on a question involving appointment to office, as the case may be)[15] apply to any such documents relating to a poll abandoned by reason of the death of a candidate[16]. Ballot papers on which the votes were neither counted nor rejected must, however, be treated as counted ballot papers[17]; and no order may be made for the production or inspection of any ballot papers or for the opening of a sealed packet of the completed corresponding number lists (or counterfoils, as the case may be) or certificates as to employment on duty on the day of the poll[18] unless the order is made by a court with reference to a prosecution[19].

Where the poll at such an election is taken together with the poll at another election, special provision is made and neither the countermand of the poll at one election nor the direction that polling be abandoned at that election is to affect the poll at the other election[20].

1 As to contested elections generally see para 389 et seq ante. As to the provision made for the countermand or abandonment of the poll at a parliamentary election see para 509 ante. For the meaning of 'parliamentary election' see para 9 ante. There is no provision made for the countermand or abandonment of the poll on the death of a candidate either at an election for the return of London members of the London Assembly or at a European parliamentary election; cf, in relation to regional elections for the National Assembly for Wales, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 65 (see the text and notes 2–19 infra). In the case of elections for the return of members of the National Assembly for Wales, the election referred to is either a contested Assembly constituency election or a contested Assembly regional election. For the meanings of 'Assembly election', 'constituency election' and 'regional election' in this context see para 3 note 1 ante. As to vacancies arising in the seats of London members of the London Assembly see para 211 et seq ante; and as to vacancies arising in the office of member of the European Parliament ('MEP') see para 225 ante.

2 As to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante; and as to the returning officer at a poll consequent on a parish meeting on a question involving appointment to office see para 361 ante. In the case of the election of a constituency member of the London Assembly, the appropriate returning officer in this context is the constituency returning officer (for the meaning of which see para 218 note 8 ante). For the purposes of an election for the return of the Mayor of London, it is the Greater London returning officer (for the meaning of which see para 218 note 7 ante); but see note 9 infra. For the meanings of 'constituency member' and 'election of a constituency member of the London Assembly' see para 10 ante. As to ordinary elections of constituency members of the London Assembly or an election for the return of the Mayor of London see para 206 et seq ante. For the purposes of Welsh Assembly elections, the appropriate returning officer is, in relation to an Assembly constituency election, the constituency returning officer and, in relation to an Assembly regional election, it is the regional returning officer. For the meanings of 'constituency returning officer' and 'regional returning officer' see para 18 note 2 ante.

3 At a poll consequent on a parish meeting on a question involving appointment to office, such proof must be given before the result of the poll is declared: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 37(1).

4 At a poll consequent on a parish meeting on a question involving appointment to office, the reference is to a candidate who has not withdrawn: ibid Schedule r 37(1). At a Welsh Assembly regional election, the candidate referred to in the text may be either an individual candidate or a party list candidate: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 65(5). For the meanings of 'individual candidate' and 'party list candidate' in this context see para 237 note 23 ante.

5 As to the time at which the returning officer can be satisfied that a candidate satisfies this test see para 270 ante.

6 If, at a contested Welsh Assembly regional election, proof is given to the regional returning officer's satisfaction before the results of the election are declared that one of the persons named or to be named

as a candidate on the ballot paper (whether as an individual or party list candidate) has died, but as a result of that death the election continues to remain contested, the notice of poll is not to be countermanded nor the poll abandoned and such a death has no effect upon the validity of the election and return of any candidate at the regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(6). However, in these circumstances, the regional returning officer must take such steps as he considers reasonable to publicise, in the Assembly electoral region for which the election is held, the name of that candidate and the fact of his death, whether that candidate was an individual or party list candidate and, if he was a party list candidate, the name of the registered political party for which that person was such a candidate: Sch 5 para 65(7). The regional returning officer must, in particular, consider whether he should take the required steps to publicise by causing notices to be placed outside polling stations: Sch 5 para 65(7). For the meanings of 'Assembly constituency' and 'Assembly electoral region' for these purposes see para 3 note 1 ante.

7 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 51(1)(a), Sch 3 r 56(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 54(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(1)(a), (b), (5)(a), (b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 55(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 55(1). In relation to a London Authority ordinary election, the countermand of a poll or the direction that a poll be abandoned has effect only in relation to the election for the return of a constituency member of the London Assembly or, as the case may be, the election for the return of the London Mayor, to which the countermand or direction relates: Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3, Sch 4 r 14. In the case of any election of a constituency member of the London Assembly, the constituency returning officer must inform the Greater London returning officer of the countermand or abandonment of the poll and of the name of the candidate who has died: Sch 1 r 51(1)(b). In the case of an ordinary Welsh Assembly election, where a constituency election has been postponed, the constituency returning officer must forthwith notify the regional returning officer for the Assembly electoral region in which the Assembly constituency is situated of the action that he has taken: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(1)(c). Where polling has begun and there is a contested Assembly regional election taking place in the Assembly electoral region in which the Assembly constituency is situated, the requirement to direct that the poll be abandoned is satisfied when the regional returning officer has received the notification of the result at a constituency election required by Sch 5 para 57(3) (see para 487 ante) in respect of each of the other Assembly constituencies in the Assembly electoral region (Sch 5 para 65(3)); and in such circumstances the subsequent election of a candidate for the Assembly constituency has no effect upon the validity of the election and return of any candidate at the regional election (Sch 5 para 65(4)). Where a Welsh Assembly regional election has been postponed, the regional returning officer must forthwith notify each constituency returning officer in the Assembly electoral region of the action that he has taken: Sch 5 para 65(5)(c).

As to the ordering of a fresh election following the countermand or abandonment of a poll on the death of a candidate see para 512 post.

8 As to the appointment of presiding officers and their clerks see para 398 ante.

9 In the case of an election for the return of the Mayor of London and in the case of a Welsh Assembly regional election, the items referred to in the text are to be delivered to the appropriate constituency returning officer (see para 410 ante; cf note 2 supra).

10 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(3), Sch 3 r 56(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(2). However, where at a Welsh Assembly ordinary election a voter is entitled to give two votes at a polling station but the poll in respect of which the voter is entitled to give one of those votes is abandoned as a result of a candidate's death, the steps required to be taken by the presiding officer at such a polling station by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8) must take place on the close of the poll: Sch 5 para 65(9)(a).

11 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(3), Sch 3 r 56(2); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(3).

12 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(2)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(3)(a), Sch 3 r 56(2)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(4). As to the preparation and verification of the ballot paper accounts see para 410 et seq ante.

13 This is subject to the proviso that where a voter at a Welsh Assembly ordinary election is entitled to give two votes at a polling station, but the poll in respect of which the voter is entitled to give one of those votes is abandoned as a result of a candidate's death, the constituency returning officer must first separate the ballot papers relating to the other Assembly election before sealing up the ballot papers: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(9)(b).

14 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(2)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(3)(b), Sch 3 r 56(2)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(8)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(5).

15 See paras 503 et seq ante, 834, 849 post.

16 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(4), Sch 3 r 56(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(10); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(6).

17 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(3)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(4)(a), Sch 3 r 56(3)(a); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(10)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(7).

18 As to certificates of employment on duty on the day of the poll see para 402 ante. There are no certificates as to employment on duty on the day of the poll at a poll consequent on a parish meeting on a question involving appointment to office and accordingly no reference is made to them in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 37(3).

19 Ibid Schedule r 37(3)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 51(4)(b), Sch 3 r 56(3)(b); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 54(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 65(10)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 55(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 55(8).

20 See para 16 et seq ante.

511. Poll abandoned or countermanded after postal ballot papers have been issued. Where, after postal ballot papers have been issued[1], a poll is abandoned or countermanded by reason of the death of a candidate[2], the returning officer at the election[3] must not take any step or further step to open covering envelopes[4] or deal with their contents in accordance with the provisions governing the receipt of postal ballot papers[5]. He must[6] treat all unopened covering envelopes and the contents of those which have been opened as if they were counted ballot papers[7].

These provisions do not apply where postal ballot papers for more than one election have been issued together[8].

1 As to the issue of postal ballot papers see para 411 et seq ante.

2 See paras 509–510 ante. There is no provision for the poll at a European parliamentary election to be abandoned or countermanded as mentioned in the text (although provision is made for the return of a deceased candidate's deposit in such a case: see para 492 ante), and the provisions set out in the text do not apply in that case.

3 As to the returning officers and elections referred to in the text see para 411 notes 1, 14–15 ante; and, in relation to the returning officer's functions connected with the issue and receipt of postal ballot papers at a Welsh Assembly regional election, see also para 412 note 1 ante.
4 For the meaning of 'covering envelope' see para 416 ante.
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 14(3), Sch 3 para 26(1)(a).
6 Ie notwithstanding the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 84–86 (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 paras 20–22 (see paras 428–429 ante).
7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 26(1)(b).
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 90(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 3 para 26(2). As to the issue and receipt of postal ballot papers when polls are combined see para 20 ante.

512. Fresh election following countermand or abandonment of poll on death of candidate. Where the poll at a parliamentary election[1] is countermanded or abandoned by reason of the death of an independent candidate who has polled a majority of the votes[2], the returning officer[3] must not return the writ[4], and the proceedings with reference to the election must be commenced afresh[5] with the writ for the election taken to have been received on the first working day[6] after the end of the period of seven days starting on the day of the original election[7]. No fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated[8], and no other nomination may be made[9]. The rule regarding the making of deposits does not apply[10]. Where the poll at a parliamentary election is countermanded or abandoned by reason of the death of a party candidate[11], the proceedings with reference to the election must be commenced afresh[12], with the writ for the election taken to have been received on the first working day[13] after the end of the period of seven days starting on the day the proof of death is given to the returning officer[14]. No fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated[15]; and no other nomination may be made except for a person standing in the name of the same registered political party in whose name the deceased candidate was standing[16]. Where the poll at a parliamentary election is countermanded or abandoned by reason of the death of the Speaker of the House of Commons seeking re-election[17], the proceedings with reference to the election must be commenced afresh[18], with the writ for the election taken to have been received on the first working day[19] after the end of the period of seven days starting on the day the proof of death is given to the returning officer[20]. In all cases where a fresh election is commenced following the death of an independent or party candidate or following the death of the speaker of House of Commons seeking re-election, the poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day[21].

In the case of a local government election[22], other than an election for the return of the London members of the London Assembly[23], but including an election for the return of a local authority mayor[24], if the poll is countermanded or abandoned for any reason or no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held, the returning officer[25] must order an election to fill any vacancy which remains unfilled to be held on a day appointed by him[26]. That day must be within the period of 35 days[27] beginning with the day fixed as the day of election for the first-mentioned election[28]. Where an election is so ordered to be held, the appropriate electoral rules[29]

relating to the notice to be given of an election and the manner in which an election is to be conducted apply in relation to the election so ordered to be held as they applied or would have applied in relation to the election which has not been duly held or has failed or become void[30] and no fresh nomination is necessary in the case of a candidate who remains validly nominated for that election[31]. Where a poll consequent on a parish meeting on a question involving appointment to office is countermanded or abandoned by reason of the death of a candidate, the district council in which the parish is situated may by order make any appointment or make provision for the holding of a parish meeting or do such other thing as appears to it to be expedient in the circumstances[32].

Where the poll at a Welsh Assembly election[33] is countermanded or abandoned by reason of the death of a candidate, all proceedings with reference to the election must be commenced afresh in all respects as if publication of the notice of election had been given 28 days after the day on which proof was given to the returning officer of the death[34], except that no fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated[35].

There is no special provision for the poll at a European parliamentary election to be abandoned or countermanded[36].

Where the poll at an election is taken together with the poll at another election, special provision is made and neither the countermand of the poll at one election nor the direction that polling be abandoned at that election is to affect the poll at the other election[37].

1 For the meaning of 'parliamentary election' see para 9 ante.
2 See para 509 ante.
3 As to returning officers for parliamentary elections see para 355 et seq ante.
4 As to the issue and return of the writ at a parliamentary election see para 199 et seq ante.
5 Representation of the People Act 1983 Sch 1 r 61(1), (4) (Sch 1 rr 61, 63–64 added by the Electoral Administration Act 2006 s 24).

Any amendment effected by the Electoral Administration Act 2006 s 24 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

6 For these purposes, a working day is a day which is not a day specified in the Representation of the People Act 1983 Sch 1 r 2(1)(a)–(c) (as amended) (see para 203 note 1 ante): Sch 1 r 61(1), (10) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.
7 Ibid Sch 1 r 61(1), (5) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra. The text refers to the day of the election mentioned in Sch 1 r 60(1) (as substituted) (see para 509 ante).
8 As to the statement of persons nominated see para 272 ante.
9 Representation of the People Act 1983 Sch 1 r 61(1), (6) (as added: see note 5 supra). The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of Sch 1 r 61(6) (as added) may be delivered is the seventh working day after the day on which the writ is taken to be received: Sch 1 r 61(1), (7) (as so added). As to the commencement of these provisions see note 5 supra.
10 Ibid Sch 1 r 61(1), (8) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra. The text refers to the rule in Sch 1 r 53 (as amended) (see para 480 ante).
11 See para 509 ante.
12 Representation of the People Act 1983 Sch 1 r 63(1), (3) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.
13 For these purposes, a working day is a day which is not a day specified in ibid Sch 1 r 2(1)(a)–(c) (as amended) (see para 203 note 1 ante): Sch 1 r 63(1), (10)(c) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.
14 Ibid Sch 1 r 63(1), (4) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.
15 Ibid Sch 1 r 63(1), (5) (as added: see note 5 supra). The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of Sch 1 r 63(5) (as added) may be delivered is the seventh working day after the day on which the writ is taken to be received: Sch 1 r 63(1), (8) (as so added). As to the commencement of these provisions see note 5 supra.

16 Ibid Sch 1 r 63(1), (6) (as added: see note 5 supra). The last day on which a nomination mentioned in Sch 1 r 63(6) (as added) may be delivered, or on which a notice of withdrawal of candidature by a person who stands nominated in pursuance of Sch 1 r 63(6) (as added) may be delivered, is the seventh working day after the day on which the writ is taken to be received: Sch 1 r 63(7), (8) (as so added). As to the commencement of these provisions see note 5 supra.

17 See para 509 ante.

18 Representation of the People Act 1983 Sch 1 r 64(1), (3) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

19 For these purposes, a working day is a day which is not a day specified in ibid Sch 1 r 2(1)(a)–(c) (as amended) (see para 203 note 1 ante): Sch 1 r 64(1), (7) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

20 Ibid Sch 1 r 64(1), (4) (as added: see note 5 supra). The last day on which either nominations or notice of withdrawal of candidature may be delivered is the seventh working day after the day on which the writ is taken to be received: Sch 1 r 64(1), (5) (as so added). As to the commencement of these provisions see note 5 supra.

21 Ibid Sch 1 rr 61(1), (9), 63(1), (9), 64(1), (6) (as added: see note 5 supra). As to the commencement of these provisions see note 5 supra.

22 For the meaning of 'local government election' see para 10 ante.

23 As to the filling of vacancies arising in the seats of London members of the London Assembly see para 211 et seq ante.

24 As to elections for the return of a local authority mayor see para 205 et seq ante.

25 As to returning officers for local government elections (including local authority mayoral elections) see para 359 et seq ante.

26 Representation of the People Act 1983 s 39(1) (amended by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 6(1), (2)). The Representation of the People Act 1983 s 39(1) (as amended) and s 39(5) are applied for these purposes by the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 51(2), Sch 3 r 56(1); the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 54(1); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 55(1); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 55(1)). It is for the returning officer and not for the court to countermand a poll when appropriate: *R (on the application of Begum) v Tower Hamlets London Borough Council* [2006] EWCA Civ 733 at [12], [2006] LGR 674 at [12] per Sir Anthony Clarke MR (obiter) (the returning officer will countermand a poll in the case of the death of a candidate (as to which see para 510 ante) and it is something of a puzzle why the Representation of the People Act 1983 s 39(1) (as amended) uses the words 'for any reason').

27 Ie computed according to the Representation of the People Act 1983 s 40 (as amended) (see para 216 note 7 ante).

28 Ibid s 39(1) (amended by the Representation of the People Act 1985 s 19); as applied (see note 26 supra).

29 Ie the rules under the Representation of the People Act 1983 s 36 (as amended) (see para 388 ante).

30 Ibid s 39(5)(a); as applied (see note 26 supra).

31 Ibid s 39(5)(b); as applied (see note 26 supra).

32 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 37(4).

33 For the purposes of Welsh Assembly elections, the appropriate returning officer is, in relation to an Assembly constituency election, the constituency returning officer and, in relation to an Assembly regional election, the regional returning officer. For the meanings of 'Assembly election', 'constituency election' and 'regional election' in this context see para 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see para 18 note 2 ante.

34 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 65(1).

35 Ibid Sch 5 para 65(2).

36 Provision is made, however, for the return of a deceased candidate's deposit in such a case (see para 492 ante). Provision is also made for the filling of a vacancy in the office of member of the European Parliament ('MEP'): see para 225 ante.

37 See para 16 et seq ante.

(5) PILOT SCHEMES MODIFYING THE CONDUCT OF ELECTIONS

(i) Pilot Schemes regarding Voting and Campaigning at Local Government Elections

513. Pilot orders relating to schemes for voting and campaigning at local government elections. Where a relevant local authority[1] submits to the Secretary of State[2] proposals for a pilot scheme to apply to particular local government elections[3] held in the authority's area[4] and those proposals are approved by the Secretary of State, either without modification[5] or with such modifications as, after consulting the authority, he considers appropriate[6], the Secretary of State must by order[7] make such provision for and in connection with the implementation of the scheme in relation to those elections as he considers appropriate (which may include provision modifying or disapplying any enactment)[8]. Such a scheme may make, in relation to local government elections in the area of a relevant local authority[9], provision differing in any respect from that made under or by virtue of the Representation of the People Acts[10] as regards one or more of the following, namely: (1) when, where and how voting at the elections is to take place[11]; (2) how the votes cast at the elections are to be counted[12]; (3) the sending by candidates of election communications free of charge for postage[13]. Without prejudice to the generality of these provisions, such a scheme may make provision: (a) for voting to take place on more than one day (whether each of those days is designated as a day of the poll or otherwise) and at places other than polling stations[14]; or (b) for postal charges incurred in respect of the sending of candidates' election communications as mentioned in head (3) above to be paid by the authority concerned[15].

1 For these purposes, 'relevant local authority' means, as respects England, a county council, a district council, a London borough council or the Greater London Authority and, as respects Wales, a county council or a county borough council: Representation of the People Act 2000 s 10(11). As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq; as to London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq. A county council, a district council or a London borough council in England and a county council or a county borough council in Wales is referred to as a 'principal council': see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.

2 As to the Secretary of State see para 2 ante.

3 Ie including any such proposals which are submitted by a relevant local authority jointly with the Electoral Commission, in which case references to the authority must be read as references to the authority and the Commission: Representation of the People Act 2000 s 10(1A) (added by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 16(1), (2)). For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 17(2). As to the Electoral Commission see para 31 et seq ante; and as to the involvement of the Commission in changes in electoral procedures see para 50 ante. See also the European Parliamentary and Local Elections (Pilots) Act 2004, which disapplied the Representation of the People Act 2000 s 10 (as amended) for the purposes of making provision for the piloting of all-postal voting (or any other innovative voting method) in relation to European parliamentary elections for the 2004 elections only.

4 Representation of the People Act 2000 s 10(1)(a). For the meaning of 'local government area' see para 18 note 2 ante; definition applied by virtue of s 17(2).

5 For these purposes, 'modifications' includes additions, omissions and amendments (and 'modify' has a corresponding meaning): ibid s 17(2).

6 Ibid s 10(1)(b).

7 Where the Secretary of State makes any such order he must send a copy of the order to the authority concerned and to the Electoral Commission and that authority must publish the order in its area in such manner as it thinks fit: ibid s 10(5) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (3)). In a case where any proposals are not jointly submitted under the Representation of the People Act 2000 s 10(1A) (as added) (see note 3 supra), the Secretary of State must

consult the Electoral Commission before making any such order: s 10(1A) (as added: see note 3 supra). At the date at which this volume states the law, no such order had been made.

8 Ibid s 10(1). For these purposes, 'enactment' includes any provision of an Act (including the Representation of the People Act 2000) and any provision of subordinate legislation (within the meaning of the Interpretation Act 1978: see STATUTES vol 44(1) (Reissue) para 1232): Representation of the People Act 2000 s 17(2).

9 For this purpose, the reference to local government elections in the area of a relevant local authority is a reference to such elections either throughout that area or in any particular part or parts of it as the scheme may provide: ibid s 10(4).

10 For the meaning of 'the Representation of the People Acts' see para 3 note 1 ante.

11 Representation of the People Act 2000 s 10(2)(a).

12 Ibid s 10(2)(b).

13 Ibid s 10(2)(c).

14 Ibid s 10(3)(a).

15 Ibid s 10(3)(b). Where a scheme makes provision for postal charges incurred in respect of the sending of candidates' election communications to be paid as mentioned in head (b) in the text, the Secretary of State's order under s 10(1) (see the text and notes 1–8 supra) may make provision for disapplying the Representation of the People Act 1983 s 75(1) (as amended) (restriction on third party election expenditure: see para 277 ante) in relation to the payment of such charges by the authority: Representation of the People Act 2000 s 10(3).

514. Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local government elections. Once any local government elections[1] have taken place in relation to which a pilot scheme order applied[2], the Electoral Commission[3] must prepare a report on the scheme[4]. Such a report must be prepared in consultation with the local authority concerned[5]; and that authority must provide the Commission with such assistance as it may reasonably require in connection with the preparation of the report (and such assistance may, in particular, include the making by the authority of arrangements for ascertaining the views of voters about the operation of the scheme)[6]. The report must, in particular, contain[7]: (1) a description of the scheme and of the respects in which the provision made by it differed from that made by or under the Representation of the People Acts[8]; (2) a copy of the order of the Secretary of State[9]; and (3) an assessment of the scheme's success or otherwise in facilitating voting at the elections in question[10] and, if it made provision as respects the counting of votes cast at those elections, the counting of votes, or in encouraging voting at the elections in question or enabling voters to make informed decisions at those elections[11]. If the Secretary of State so requests in writing, the report must also contain an assessment of such other matters relating to the scheme as are specified in his request[12]. Once the Electoral Commission has prepared the report, it must send a copy of it to the Secretary of State and to the authority concerned, and that authority must publish the report in its area, in such manner as it thinks fit, by the end of the period of three months beginning with the date of the declaration of the result of the elections in question[13].

1 For the meaning of 'local government election' see para 10 ante; definition applied by virtue of the Representation of the People Act 2000 s 17(2).

2 Ie in relation to which a scheme under ibid s 10(1) applied (as to which see para 513 ante).

3 As to the Electoral Commission see para 31 et seq ante; and as to the involvement of the Commission in changes in electoral procedures see para 50 ante.

4 Representation of the People Act 2000 s 10(6) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 16(1), (4)).

5 As to the local authorities which may propose such a scheme see para 513 note 1 ante.

6 Representation of the People Act 2000 s 10(6A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (5)).

7 Representation of the People Act 2000 s 10(7) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (6)).

8 Representation of the People Act 2000 s 10(7)(a). For the meaning of 'the Representation of the People Acts' see para 3 note 1 ante.

9 Ibid s 10(7)(b). The text refers to the pilot scheme order made under s 10(1) (as to which see para 513 ante). As to the Secretary of State see para 2 ante.

10 An assessment of the scheme's success or otherwise in facilitating voting at the elections in question must include a statement by the authority concerned as to whether, in its opinion: (1) the turnout of voters was higher than it would have been if the scheme had not applied (ibid s 10(8)(a)); (2) voters found the procedures provided for their assistance by the scheme easy to use (s 10(8)(b)); (3) the procedures provided for by the scheme led to any increase in personation or other electoral offences or in any other malpractice in connection with elections (s 10(8)(c)); (4) those procedures led to any increase in expenditure, or to any savings, by the authority (s 10(8)(d)).

11 Ibid s 10(7)(c).

12 Ibid s 10(9).

13 Ibid s 10(10) (substituted by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (7)). As to the declaration of the result at a local government election see para 481 ante.

515. Revision of procedures following report on pilot schemes relating to voting and campaigning at local government elections. If it appears to the Secretary of State[1], in the light of any report on a pilot scheme regarding voting and campaigning at local government elections[2], that it would be desirable for provision similar to that made by the scheme to apply generally, and on a permanent basis, in relation to local government elections in England and Wales or to any particular description of such elections, he may by order[3] make such provision for and in connection with achieving that result as he considers appropriate[4]. However, the power of the Secretary of State to make such an order is exercisable only on a recommendation of the Electoral Commission[5]. Such an order may except from the operation of any of its provisions any local government area[6] specified in the order[7]; but, subject to that, such an order must make the same provision in relation to local government elections or, if it applies only to a particular description of such elections, in relation to elections of that description[8], throughout England and Wales[9].

1 As to the Secretary of State see para 2 ante.

2 Ie a report made under the Representation of the People Act 2000 s 10 (as amended) (see para 514 ante). For the meaning of 'local government election' see para 10 ante; definition applied by virtue of s 17(2).

3 Such an order must be made by statutory instrument; and no such order may be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament: ibid s 11(3). When laying such a draft before either House of Parliament the Secretary of State must also lay before that House a copy of every report under s 10 (as amended) (see para 514 ante) which relates to a scheme making provision similar to that made by the order: s 11(4) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 17(1), (3)). At the date at which this volume states the law, no such order had been made.

Rules made under the Representation of the People Act 1983 s 36 (as amended) (local elections in England and Wales: see para 388 ante) may make such provision as the Secretary of State considers appropriate in connection with any provision made by such an order: Representation of the People Act 2000 s 11(6). However, nothing in s 11 (as amended) is to be taken as prejudicing the generality of any power contained in any other Act to make subordinate legislation (within the meaning of the Interpretation Act 1978: see STATUTES vol 44(1) (Reissue) para 1232) with respect to elections of any description: Representation of the People Act 2000 s 11(7).

4 Ibid s 11(1). Such provision as is mentioned in the text may include provision modifying or disapplying any provision of an Act, including the Representation of the People Act 2000: s 11(1). As to the meaning of 'modify' for these purposes see para 513 note 5 ante.

5 Ibid s 11(1) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 17(1), (2)). As to the Electoral Commission see para 31 et seq ante; and as to the involvement of the Commission in changes in electoral procedures see para 50 ante.

6 For the meaning of 'local government area' see para 18 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 17(2).

7 Ibid s 11(2)(a). An order which excepts any local government area as mentioned in the text must, if it would otherwise be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument: s 11(5).

8 Ibid s 11(2)(b).

9 Ibid s 11(2). For the meanings of 'England' and 'Wales' see para 13 note 1 ante.

(ii) Pilot Schemes relating to Ballot Papers at Local Government Elections

516. Pilot orders relating to schemes for modifying ballot papers used at local government elections. A local authority[1] may make a proposal that a pilot order be made applying to particular local government elections[2] held in its area[3]; and the Secretary of State[4] may by order (a 'pilot order') make provision for the purposes of enabling ballot papers[5] issued at such local government elections as are specified in the order to contain photographs of the candidates[6]. A pilot order may include such provision modifying or disapplying any enactment as the Secretary of State thinks is necessary or expedient for the purposes of the order[7]; but the Secretary of State must not make a pilot order unless he first consults the Electoral Commission[8]. A pilot order may make provision implementing the local authority's proposal either without modification or with such modifications as the Secretary of State and the local authority agree between them[9]. If the Secretary of State makes a pilot order he must send a copy of it to the local authority and to the Electoral Commission and the local authority must publish the order in its area in such manner as it thinks fit[10].

1 Ie as respects England, a county council, a district council, a London borough council or the Greater London Authority and, as respects Wales, a county council or a county borough council: Electoral Administration Act 2006 s 32(9). As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq; as to London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq. A county council, a district council or a London borough council in England and a county council or a county borough council in Wales is referred to as a 'principal council': see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.

2 For these purposes, 'local government election' must be construed in accordance with the definition in the Representation of the People Act 1983 s 203(1) (as amended) (see para 10 ante); and any reference to the area of a local authority must be construed in accordance with that definition: Electoral Administration Act 2006 s 32(10).

3 Ibid s 32(1).

4 As to the Secretary of State see para 2 ante.

5 As to the form and printing of ballot papers see para 391 et seq ante.

6 Electoral Administration Act 2006 s 32(2). At the date at which this volume states the law, no such order had been made. A pilot order may be amended or revoked by a further order: s 32(7). The Secretary of State may reimburse a returning officer for any expenditure necessarily incurred by him in consequence of the making of a pilot order: s 32(8).

7 Ibid s 32(3).

8 Ibid s 32(4). As to the Electoral Commission see para 31 et seq ante.

9 Ibid s 32(5).

10 Ibid s 32(6).

517. Evaluation by the Electoral Commission of pilot schemes for modifying ballot papers used at local government elections. After any elections have taken place which were specified in a pilot order[1] enabling ballot papers to contain photographs of the candidates, the Electoral Commission[2] must prepare a report on the operation of the order[3]. The report must contain, in particular: (1) a description of the way in which the provision made by the order differed from the provisions which would otherwise have applied to the election or elections[4]; (2) a copy of the order[5]; (3) an assessment of the success or otherwise of the order in assisting voters to make informed decisions at the election or elections in question[6]; (4) an assessment of the success or otherwise of the order in encouraging voting at the election or elections in question[7]; (5) an assessment of whether the procedures provided for in the order operated satisfactorily[8]. The local authority concerned[9] must give the Commission such assistance as the Commission may reasonably require in connection with the preparation of the

report[10]. The assistance may include making arrangements for ascertaining the views of electors about the operation of the provisions of the order or reporting to the Commission allegations of electoral offences or other malpractice[11]. The Commission must, before the end of the period of three months beginning with the date of the declaration of the result of the election or elections in question[12], send a copy of the report to the Secretary of State[13] and to the local authority[14]; and the local authority must publish the report in its area in such manner as it thinks fit[15].

1 Ie a pilot order made under the Electoral Administration Act 2006 s 32 (see para 516 ante): s 33(11).
2 As to the Electoral Commission see para 31 et seq ante.
3 Electoral Administration Act 2006 s 33(1).
4 Ibid s 33(2)(a).
5 Ibid s 33(2)(b).
6 Ibid s 33(2)(c). An assessment under head (3) in the text must include a statement of whether, in the opinion of the Commission, the inclusion of photographs on the ballot paper assisted voters in marking their papers with a vote for a candidate (or with votes for candidates) for whom they had decided to vote on grounds other than the candidates' appearance or resulted in voters being influenced (or more influenced) by the appearance of candidates in deciding for whom to vote: s 33(3). In making such an assessment, the Commission must also apply such other criteria as are specified in the order in relation to that assessment: s 33(6).
7 Ibid s 33(2)(d). An assessment under head (4) in the text must include a statement of whether, in the opinion of the Commission, the turnout of voters was higher than it would have been if the order had not applied: s 33(4). In making such an assessment, the Commission must also apply such other criteria as are specified in the order in relation to that assessment: s 33(6).
8 Ibid s 33(2)(e). An assessment under head (5) in the text must include a statement of: (1) whether the candidates and their agents found the procedures provided for in the order easy to use (s 33(5)(a)); (2) whether the returning officer found those procedures easy to administer (s 33(5)(b)); (3) whether those procedures had any effect on the incidence of malpractice (whether or not amounting to an offence) in connection with elections (s 33(5)(c)); (4) the amount of any increase attributable to those procedures in the resources applied by the authority concerned to the election or elections (s 33(5)(d)). In making such an assessment, the Commission must also apply such other criteria as are specified in the order in relation to that assessment: s 33(6).
9 Ie the local authority which made a proposal for the pilot order (see para 516 ante): ibid s 33(11).
10 Ibid s 33(7).
11 Ibid s 33(8).
12 As to the declaration of the result at a local government election see para 481 ante.
13 As to the Secretary of State see para 2 ante.
14 Electoral Administration Act 2006 s 33(9).
15 Ibid s 33(10).

518. Revision of procedures following report on pilot schemes for modifying ballot papers used at local government elections. If the Secretary of State[1] thinks, in the light of a report made[2] on the operation of a pilot order[3] which enabled ballot papers at a local government election[4] to contain photographs of the candidates, that it would be desirable for provision similar to that made by the order to apply generally, and on a permanent basis, in relation to: (1) parliamentary elections[5]; (2) local government elections in England and Wales[6]; or (3) any description of election falling within head (1) or head (2) above[7], he may by order[8] make provision for the purposes of enabling ballot papers issued at such elections as are specified in the order to contain photographs of the candidates[9]. However, the Secretary of State must not make such an order unless he first consults the Electoral Commission[10].

1 As to the Secretary of State see para 2 ante.
2 Ie a report made under the Electoral Administration Act 2006 s 33 (see para 517 ante): s 33(11).
3 Ie a pilot order made under ibid s 32 (see para 516 ante): s 33(11).
4 For the meaning of 'local government election' see para 516 note 2 ante; definition applied by virtue of ibid s 34(7).
5 Ibid s 34(1)(a). For the meaning of 'parliamentary election' see para 9 ante.
6 Ibid s 34(1)(b).

7 Ibid s 34(1)(c).

8 The power to make such an order is exercisable by statutory instrument, but no such order may be made unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament: ibid s 34(6). At the date at which this volume states the law, no such order had been made.

9 Ibid s 34(2). Such an order may include such provision modifying or disapplying any enactment as the Secretary of State thinks is necessary or expedient for the purposes of the order and may create or extend the application of an offence: s 34(4). However, such an order must not create an offence punishable, on conviction on indictment, with imprisonment for a term exceeding one year or, on summary conviction, with imprisonment for a term exceeding 51 weeks or with a fine exceeding the statutory maximum: s 34(5). If such an order is made before the date of commencement of the Criminal Justice Act 2003 s 281(5) (not yet in force) (alteration of penalties for summary offences), then in relation to any offence committed before that date the reference in the Electoral Administration Act 2006 s 34(5) to 51 weeks must be taken to be a reference to six months: s 34(8).

10 Ibid s 34(3). As to the Electoral Commission see para 31 et seq ante.

6. PROCEDURE FOR CONDUCTING REFERENDUMS

(1) NATIONAL AND REGIONAL REFERENDUMS

(i) General Framework for the Conduct of National and Regional Referendums

A. IN GENERAL

519. Referendums for which provision is made under the Political Parties, Elections and Referendums Act 2000. Part VII of the Political Parties, Elections and Referendums Act 2000[1] applies to any referendum held throughout: (1) the United Kingdom[2]; (2) one or more of England[3], Scotland, Wales[4] and Northern Ireland[5]; or (3) any region in England for which a development agency has been established[6]. For these purposes, 'referendum' means a referendum or other poll held, in pursuance of any provision made by or under an Act of Parliament[7], on one or more questions[8] specified in or in accordance with any such provision[9]. The referendum period in such a case is such period as is provided for by or under that Act[10]; and where the date of the poll in the case of any such referendum falls to be fixed under any provision made by or under that Act, the date so fixed must not be earlier than 28 days after the end of the period of 14 days within which the Electoral Commission must determine an application for designation[11] made by a permitted participant[12].

1 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended).

2 Ibid s 101(1)(a). For the meaning of 'United Kingdom' see para 13 note 1 ante.

3 For the meaning of 'England' see para 13 note 1 ante.

4 For the meaning of 'Wales' see para 13 note 1 ante. However, a poll held under the Government of Wales Act 2006 s 64 (poll held to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised: see para 554 post) is not to be taken to be a referendum to which the Political Parties, Elections and Referendums Act 2000 Pt VII (as amended) applies: s 101(3); Interpretation Act 1978 s 17(2)(b).

5 Political Parties, Elections and Referendums Act 2000 s 101(1)(b).

6 Ibid s 101(1)(c). The text refers to any region in England specified in the Regional Development Agencies Act 1998 s 1, Sch 1 (see TRADE, INDUSTRY AND INDUSTRIAL RELATIONS vol 47 (2001 Reissue) paras 896–905).

7 See eg the Regional Assemblies (Preparations) Act 2003; and para 547 et seq post. If the Secretary of State by order so provides, the Political Parties, Elections and Referendums Act 2000 s 101(2) applies to any specified Bill which has been introduced into Parliament before the making of the order as if it were an Act (s 101(4)(a)); and any specified provisions of Pt VII (as amended) apply, subject to any specified modifications, in relation to any specified referendum for which provision is made by the Bill (s 101(4)(b)). In s 101(4), 'specified' means specified in the order under s 101(4): s 101(5). At the date at which this volume states the law, no such order had been made. As to the meaning of 'modification' see para 39 note 9 ante. As to the Secretary of State see para 2 ante. As to local authority referendums, which fall outside the scope of the definition of 'referendum' given in s 101(2), see para 557 et seq post.

8 In ibid Pt VII (as amended), 'question' includes proposition (and 'answer' accordingly includes response): s 101(2)(b). As to the setting and approval of referendum questions see para 520 post.

9 Ibid s 101(2)(a). The Electoral Commission must, after each such referendum, prepare and publish, in such manner as the Commission may determine, a report on the administration of the referendum: see para 46 ante. As to the Electoral Commission see para 31 et seq ante.

10 Ibid s 102(1), (3). However, in the case of a referendum to which an order under s 101(4) applies (see note 7 supra), the referendum period is such period, not exceeding six months, as may be specified in the order (s 102(4)) unless the referendum period in such a case would end after the date of the poll, in which case it ends instead on that date (s 102(5)).

11 Ie, subject to ibid s 103(2), the period of 14 days mentioned in s 109(3) (see para 522 post). As to designation of permitted participants as organisations to whom assistance is available see para 522 et seq post. For the meaning of 'permitted participant' see para 521 post.

If an order applies to the referendum under s 109(6) (Secretary of State may specify different periods of time in relation to applications for designation: see para 522 post), this period of 14 days must be read as referring to the period which is to apply instead: s 103(2).

12 Ibid s 103(1).

B. REFERENDUM QUESTIONS

520. Wording of referendum questions. Where a Bill is introduced into Parliament which provides for the holding of a poll that would be a referendum[1] to which the general framework provisions apply[2] and the Bill specifies the wording of the referendum question[3], the Electoral Commission[4] must consider the wording of the question[5], and must publish a statement of any views of the Commission as to the intelligibility of that question as soon as reasonably practicable after the Bill is introduced[6] and in such manner as it may determine[7].

Where the wording of such a question falls to be specified in subordinate legislation[8] then, if a draft of the instrument in question is to be laid before Parliament for approval by each House, the Secretary of State[9] must consult the Commission on the wording of the referendum question[10] before any such draft is so laid[11] and he must, at the time when any such draft is so laid, lay before each House a report stating any views as to the intelligibility of that question which the Commission has expressed in response to that consultation[12]. If the instrument in question is to be subject to annulment in pursuance of a resolution of either House of Parliament, the Secretary of State[13] must consult the Commission on the wording of the referendum question[14] before making the instrument[15] and he must, at the time when the instrument is laid before Parliament, lay before each House a report stating any views as to the intelligibility of that question which the Commission has expressed in response to that consultation[16].

1 For the meaning of 'referendum' see para 519 ante.

2 Political Parties, Elections and Referendums Act 2000 s 104(1)(a). The reference in the text is to a referendum to which the general framework provisions for the holding of referendums contained in Pt VII (ss 101–129) (as amended) apply: see para 519 ante.

3 Ibid s 104(1)(b). For these purposes, the 'referendum question' means the question or questions to be included in the ballot paper at the referendum: s 104(7). As to the meaning of 'question' see para 519 note 8 ante.

4 As to the Electoral Commission see para 31 et seq ante.

5 Where any such Bill specifies not only the referendum question but also any statement which is to precede that question on the ballot paper at the referendum, any reference to the referendum question must be read as a reference to that question and that statement taken together: Political Parties, Elections and Referendums Act 2000 s 104(6).

6 Ibid s 104(2)(a).

7 Ibid ss 104(2)(b), 160(1).

8 Ibid s 104(3). The text refers to subordinate legislation within the meaning of the Interpretation Act 1978 (see STATUTES vol 44(1) (Reissue) para 1232).

9 Ibid s 104(4). As to the Secretary of State see para 2 ante.

10 Where any such draft instrument specifies not only the referendum question but also any statement which is to precede that question on the ballot paper at the referendum, any reference to the referendum question must be read as a reference to that question and that statement taken together: ibid s 104(6).

11 Ibid s 104(4)(a).

12 Ibid s 104(4)(b).

13 Ibid s 104(5).

14 Where any instrument to which ibid s 104(5) applies specifies not only the referendum question but also any statement which is to precede that question on the ballot paper at the referendum, any reference to the referendum question must be read as a reference to that question and that statement taken together: s 104(6).

15 Ibid s 104(5)(a).

16 Ibid s 104(5)(b).

C. PERMITTED PARTICIPANTS

521. Meaning of 'permitted participant'. In relation to a particular referendum[1] to which the general framework provisions apply[2], a 'permitted participant' means[3]: (1) a registered party[4] by whom a declaration has been made to the Electoral Commission[5] in relation to the referendum[6]; or (2) any of the following by whom a notification has been given to the Commission[7] in relation to the referendum, namely[8]: (a) any individual resident in the United Kingdom[9] or registered in an electoral register[10]; or (b) a company registered under the Companies Act 1985 and incorporated within the United Kingdom or another member state which carries on business in the United Kingdom[11]; (c) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992[12]; (d) a building society[13]; (e) a limited liability partnership registered under the Limited Liability Partnerships Act 2000 which carries on business in the United Kingdom[14]; (f) a friendly society registered under the Friendly Societies Act 1974[15] or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965[16]; and (g) any unincorporated association of two or more persons which does not fall within any of heads (b) to (f) above but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there[17].

For these purposes, a registered party makes a declaration to the Commission if the party makes a declaration to the Commission which identifies the referendum to which it relates[18] and the outcome or outcomes[19] for which the party proposes to campaign[20]. Such a declaration must be signed by the responsible officers of the party[21] and, if made by a minor party[22], must be accompanied by a notification which states the name of the person who will be responsible for compliance on the part of the party with the financial controls which operate during a referendum[23]. For these purposes, an individual or body[24] gives a notification to the Commission if he or it gives the Commission a notification which identifies the referendum to which it relates[25] and the outcome or outcomes for which the giver of the notification proposes to campaign[26]. Such a notification: (i) if given by an individual, must state his full name[27] and his home address in the United Kingdom (or, if he has no such address in the United Kingdom, his home address elsewhere)[28] and must be signed by him[29]; or (ii) if given by a body falling within any of heads (2)(b) to (2)(g) above, must state all such details in respect of the body as are required[30] to be given in respect of such a body as the donor of a recordable donation[31] and the name of the person or officer who will be responsible for compliance on the part of the body with the financial controls which operate during a referendum[32], and must be signed by the body's secretary or a person who acts in a similar capacity in relation to the body[33]. If at any time before the end of the compliance period[34] any of the statements which are contained in a notification[35] (as it has effect for the time being) ceases to be accurate, the permitted participant by whom the notification was given must give the Commission a notification (a 'notification of alteration') indicating that that statement is replaced by some other statement contained in the notification of alteration[36] and conforming with the provision under which the original notification was given[37].

The Commission must maintain a register of all declarations made to it by a registered party[38] and of all notifications given to it by an individual or body[39]. The register must be maintained by the Commission in such form as it may determine and must contain, in the case of each such declaration or notification, all of the information supplied to the Commission in connection with it[40]. Where any such declaration or notification is made or given to the Commission[41], it must cause all the information contained therein to be entered in the register (or, in the case of a notification of

alteration, any change required as a consequence of the notification to be made in the register) as soon as is reasonably practicable[42]; but the information which is to be so entered in the register in respect of a permitted participant who is an individual must not include his home address[43]. The Commission must make a copy of the register so kept by it[44] available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by it[45], although the Commission may make other arrangements for members of the public to have access to the register's contents[46]. If requested to do so by any person, the Commission must supply him with a copy of the register or any part of it[47] and the Commission may charge such reasonable fee as it may determine in respect of any inspection or access so allowed or any copy so supplied[48]. Where any such register is held by the Commission in electronic form, any copy so made available for public inspection or so supplied must be made available, or (as the case may be) supplied, in a legible form[49].

1 For the meaning of 'referendum' see para 519 ante.
2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended).
3 Ibid s 105(1).
4 For the meaning of 'registered party' see para 32 note 3 ante.
5 Ie a declaration made under the Political Parties, Elections and Referendums Act 2000 s 106 (see the text and notes 18–23 infra). As to the Electoral Commission see para 31 et seq ante.
6 Ibid s 105(1)(a).
7 Ie a notification made under ibid s 106 (see the text and notes 24–33 infra).
8 Ibid s 105(1)(b).
9 For the meaning of 'United Kingdom' see para 13 note 1 ante.
10 Political Parties, Elections and Referendums Act 2000 s 105(1)(b)(i). The text refers to an electoral register as defined by s 54(8) (as amended) (see para 293 note 9 ante).
11 Ibid ss 54(2)(b), 105(1)(b)(ii). As to the registration and incorporation of companies see COMPANIES vol 7(1) (2004 Reissue) para 221 et seq; and as to the control of contributions and other donations made by companies generally to registered parties and other European Union political organisations, and European Union political expenditure incurred by companies, see the Companies Act 1985 Pt XA (ss 347A–347K) (as added); and COMPANIES vol 7(1) (2004 Reissue) para 433 et seq.
12 Political Parties, Elections and Referendums Act 2000 ss 54(2)(d), 105(1)(b)(ii). As to the list referred to in the text see TRADE, INDUSTRY AND INDUSTRIAL RELATIONS vol 47 (2001 Reissue) para 1010. Unless certain conditions are met, the funds of a trade union may not be applied in the furtherance of certain political objects: see the Trade Union and Labour Relations (Consolidation) Act 1992 Pt I Ch VI (ss 71–96) (as amended); and TRADE, INDUSTRY AND INDUSTRIAL RELATIONS vol 47 (2001 Reissue) para 1077 et seq.
13 Political Parties, Elections and Referendums Act 2000 ss 54(2)(e), 105(1)(b)(ii). The text refers to a building society within the meaning of the Building Societies Act 1986 (see BUILDING SOCIETIES vol 4(3) (Reissue) para 451).
14 Political Parties, Elections and Referendums Act 2000 ss 54(2)(f), 105(1)(b)(ii). As to a limited liability partnership registered under the Limited Liability Partnerships Act 2000 see PARTNERSHIP vol 35 (Reissue) para 221 et seq.
15 As to friendly societies registered under the Friendly Societies Act 1974 see FRIENDLY SOCIETIES vol 19(1) (Reissue) para 104 et seq.
16 Political Parties, Elections and Referendums Act 2000 ss 54(2)(g), 105(1)(b)(ii). As to societies registered under the Industrial and Provident Societies Act 1965 see INDUSTRIAL AND PROVIDENT SOCIETIES vol 24 (Reissue) paras 1, 16 et seq.
17 Political Parties, Elections and Referendums Act 2000 ss 54(2)(h), 105(1)(b)(ii).
18 Ibid ss 106(1)(a), 160(1).
19 For the purposes of ibid ss 107–109, 'outcome', in the case of a referendum, means a particular outcome in relation to any question asked in the referendum: s 106(7). As to the meaning of 'question' see para 519 note 8 ante.
20 Ibid s 106(1)(b).
21 Ibid s 106(2)(a). The text refers to the 'responsible officers' of the party within the meaning of s 64 (see para 316 note 26 ante).
22 For the meaning of 'minor party' see para 260 note 8 ante.
23 Political Parties, Elections and Referendums Act 2000 s 106(2)(b). The text refers to the provisions of Pt VII Ch II (ss 111–124) (as amended) (see para 527 et seq post). For the purposes of Pt VII (as amended), 'responsible person' means, if the permitted participant is a registered party, the treasurer of

the party or, in the case of a minor party, the person for the time being notified to the Commission by the party in accordance with s 106(2)(b): s 105(2)(a). As to the treasurer of a registered party see para 260 ante.

24 For the meaning of 'body' see para 53 note 2 ante.

25 Political Parties, Elections and Referendums Act 2000 ss 106(3)(a), 160(1). Any notification required to be given under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).

26 Ibid s 106(3)(b).

27 Ibid s 106(4)(a)(i).

28 Ibid s 106(4)(a)(ii).

29 Ibid s 106(4)(a).

30 Ie by virtue of any of the provisions of ibid s 62(13), Sch 6 para 2(4), (6)–(10) (as amended) (quarterly donation reports: see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

31 Ibid s 106(4)(b)(i). For the meaning of 'recordable donation' see para 316 note 14 ante.

32 Ibid s 106(4)(b)(ii). The text refers to the provisions of Pt VII Ch II (as amended) (see para 527 et seq post). For the purposes of Pt VII (as amended), 'responsible person' means, if the permitted participant is an individual, that individual (s 105(2)(b)) and, otherwise, the person or officer for the time being notified to the Commission by the permitted participant in accordance with s 106(4)(b)(ii) (s 105(2)(c)).

33 Ibid s 106(4)(b).

34 For these purposes, the 'compliance period' is the period during which any provisions of ibid Pt VII Ch II (as amended) (see para 527 et seq post) remain to be complied with on the part of the permitted participant: s 106(6)(a).

35 Ie in accordance with any provision of ibid s 106(2) (see the text and notes 21–23 supra) or s 106(4) (see the text and notes 27–33 supra).

36 Ibid s 106(5)(a).

37 Ibid s 106(5)(b), (6)(b). The text refers to the notification conforming with either s 106(2) (see the text and notes 21–23 supra) or s 106(4) (see the text and notes 27–33 supra), whichever is appropriate.

38 Ibid ss 107(1)(a), 160(1). The text refers to declarations made under s 106 (see the text and notes 18–23 supra).

39 Ibid s 107(1)(b). The text refers to notifications made under s 106 (see the text and notes 24–33 supra).

40 Ibid s 107(2). The text refers to the information supplied to the Commission in connection with each such declaration or notification in pursuance of s 106 (see the text and notes 18–37 supra).

41 Ie under ibid s 106 (see the text and notes 18–37 supra).

42 Ibid s 107(3).

43 Ibid s 107(4).

44 Ie under ibid s 107 (see the text and notes 38–43 supra).

45 Ibid s 149(1)(d), (2).

46 Ibid s 149(1)(d), (3).

47 Ibid s 149(1)(d), (4).

48 Ibid s 149(1)(d), (5).

49 Ibid s 149(1)(d), (7).

522. Power of Electoral Commission to designate permitted participants for assistance. In respect of any referendum[1] to which the general framework provisions apply[2], the Electoral Commission[3] may designate permitted participants[4] as organisations[5] to whom assistance is available[6]. Where there are only two possible outcomes[7] in the case of such a referendum, the Commission may, in relation to each of those outcomes, designate one permitted participant as representing those campaigning for the outcome in question[8]; but the Commission otherwise must not make any designation in respect of the referendum[9]. Where there are more than two possible outcomes in the case of such a referendum, the Secretary of State[10] may, after consulting the Commission, by order specify the possible outcomes in relation to which permitted participants may be designated[11]. In such a case the Commission may, in relation to each of two or more outcomes specified in any such order, designate one permitted participant as representing those campaigning for the outcome in question[12]; but the Commission otherwise must not make any designation in respect of the referendum[13].

A permitted participant seeking to be designated in this way must make an application for the purpose to the Electoral Commission[14]. An application for designation[15] must be accompanied by information or statements designed to show that the applicant adequately represents those campaigning for the outcome at the

referendum in relation to which the applicant seeks to be designated[16] and it must be made within the period of 28 days[17] beginning with the first day of the referendum period[18]. Where an application for designation has been so made to the Commission, the application must be determined by the Commission within the period of 14 days which begins with the day after the end of the period of 28 days[19] beginning with the first day of the referendum period[20]. If there is only one application in relation to a particular outcome at the referendum, the Commission must designate the applicant unless[21]: (1) it is not satisfied that the applicant adequately represents those campaigning for that outcome[22]; or (2) it is prevented from making any designation[23] in respect of the referendum[24]. If there is more than one application in relation to a particular outcome at the referendum, the Commission must designate whichever of the applicants appears to it to represent to the greatest extent those campaigning for that outcome unless[25]: (a) it is not satisfied that any of the applicants adequately represents those campaigning for that outcome[26]; or (b) it is prevented from making any designation[27] in respect of the referendum[28].

1 For the meaning of 'referendum' see para 519 ante.
2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended).
3 As to the Electoral Commission see para 31 et seq ante.
4 For the meaning of 'permitted participant' see para 521 ante.
5 As to the meaning of 'organisation' see para 48 note 20 ante.
6 Political Parties, Elections and Referendums Act 2000 ss 108(1), 160(1). The text refers to the assistance that is available in accordance with s 110 (see para 523 post).
7 For the meaning of 'outcome' see para 521 note 19 ante.
8 Political Parties, Elections and Referendums Act 2000 s 108(2)(a).
9 Ibid s 108(2)(b).
10 As to the Secretary of State see para 2 ante.
11 Political Parties, Elections and Referendums Act 2000 s 108(3). At the date at which this volume states the law, no such order had been made.
12 Ibid s 108(4)(a).
13 Ibid s 108(4)(b).
14 Ibid ss 109(1), 160(1). Any application required to be made under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).
15 For these purposes, in relation to a referendum, any reference to designation is to designation in respect of the referendum under ibid s 108 (see the text and notes 1–13 supra): s 109(7).
16 Ibid s 109(2)(a).
17 The Secretary of State may, in the case of any referendum to which ibid Part VII (as amended) applies, by order provide for s 109 to have effect as if the period of 28 days referred to in s 109(2) was instead such shorter or longer period as is specified in the order: s 109(6). See the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963, art 6(1) (which modified the period of 28 days referred to in the Political Parties, Elections and Referendums Act 2000 s 109(2) to have effect, in relation to a referendum held in the North East region about the establishment of an elected assembly for that region, as if it were a period of 42 days).
18 Political Parties, Elections and Referendums Act 2000 s 109(2)(b). As to the referendum period see para 519 ante.
19 The Secretary of State may, in the case of any referendum to which ibid Part VII (as amended) applies, by order provide for s 109 to have effect as if each, or either, of the periods of 28 and 14 days referred to in s 109(3) was instead such shorter or longer period as is specified in the order: s 109(6). See the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963, art 6(1) (which modified the period of 28 days referred to in the Political Parties, Elections and Referendums Act 2000 s 109(3) to have effect, in relation to a referendum held in the North East region about the establishment of an elected assembly for that region, as if it were a period of 42 days).
20 Political Parties, Elections and Referendums Act 2000 s 109(2)(b), (3).
21 Ibid s 109(4).
22 Ibid s 109(4)(a).
23 Ie by virtue of ibid s 108(2)(b) (see the text and note 9 supra) or s 108(4)(b) (see the text and note 13 supra).
24 Ibid s 109(4)(b).

25 Ibid s 109(5).
26 Ibid s 109(5)(a).
27 See note 23 supra.
28 Political Parties, Elections and Referendums Act 2000 s 109(5)(b).

523. Assistance available to designated organisations. Where the Electoral Commission[1] has made any designations[2] in respect of a referendum[3], assistance is available to the organisations[4] so designated[5]. The Commission must make to each designated organisation a grant of the same amount, which must be an amount not exceeding £600,000 determined by the Commission[6]. Such a grant may be made subject to such conditions[7] as the Commission considers appropriate[8]. Each designated organisation (or, as the case may be, person authorised by the organisation) has rights conferred[9] as to: (1) the sending of referendum addresses free of charge[10]; (2) the use of rooms free of charge for holding public meetings[11]; and (3) referendum campaign broadcasts[12].

1 As to the Electoral Commission see para 31 et seq ante.
2 For the meaning of references to designations see para 522 note 15 ante.
3 For the meaning of 'referendum' see para 519 ante.
4 As to the meaning of 'organisation' see para 48 note 20 ante.
5 Political Parties, Elections and Referendums Act 2000 ss 110(1), 160(1). For the purposes of s 110 and Sch 12 (as amended), 'designated organisation', in relation to a referendum, means a person or body designated by the Commission under s 108 (see para 522 ante) in respect of that referendum: s 110(5). For the meaning of 'body' see para 53 note 2 ante.
6 Ibid s 110(2). The Secretary of State may by order vary the sum for the time being specified in s 110(2): see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made.
7 As to the meaning of references to 'conditions' see para 55 note 14 ante.
8 Political Parties, Elections and Referendums Act 2000 s 110(3).
9 Ie by or by virtue of ibid Sch 12 (as amended) (see paras 524–526 post).
10 Ibid s 110(4)(a). See para 524 post.
11 Ibid s 110(4)(b). See para 525 post.
12 Ibid s 110(4)(c). See para 526 post.

524. Right of designated organisations to send referendum address post free. Subject to such reasonable terms and conditions as the universal service provider[1] concerned may specify[2], a designated organisation[3] is entitled to send free of any charge for postage which would otherwise be made by a universal service provider[4] either: (1) one unaddressed postal communication, containing matter relating to the referendum[5] only and not exceeding 60 grammes in weight, to each place in the referendum area[6] which, in accordance with those terms and conditions, constitutes a delivery point for these purposes[7]; or (2) one such postal communication addressed to each person entitled to vote at the referendum[8]. A designated organisation is also, subject as mentioned above, entitled to send free of any such charge for postage to each person entered in the list of proxies for the referendum one such postal communication for each appointment in respect of which that person is so entered[9].

1 For these purposes, 'universal service provider' has the same meaning as in the Postal Services Act 2000 (see POST OFFICE): Political Parties, Elections and Referendums Act 2000 s 110(4), Sch 12 para 1(4).
2 As to schemes as to terms and conditions for the provision of a universal postal service see the Postal Services Act 2000 s 89; and POST OFFICE.
3 For the meaning of 'designated organisation' see para 523 note 5 ante.
4 Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(1). Where any postal services are provided without charge by a universal service provider in pursuance of Sch 12 para 1, the universal service provider is entitled to be remunerated for having provided the services at the rate fixed in relation to them by virtue of a scheme under the Postal Services Act 2000 s 89 (schemes as to terms and conditions for provision of a universal postal service: see POST OFFICE): Representation of the People Act 1983 s 200A(1), (2) (s 200A added by the Postal Services Act 2000 Sch 8 para 18); applied by the

Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(3). A sum which a universal service provider is entitled to receive in this way is charged on and issued out of the Consolidated Fund: Representation of the People Act 1983 s 200A(3) (as so added); applied by the Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(3). For these purposes, 'postal services' and 'universal service provider' have the same meanings as in the Postal Services Act 2000 (see POST OFFICE): Representation of the People Act 1983 s 200A(4) (as so added); applied by the Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(3). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 711 et seq; PARLIAMENT vol 34 (Reissue) paras 952–955.

5 For the meaning of 'referendum' see para 519 ante.

6 For these purposes, the 'referendum area' means the area throughout which the referendum is being held: Political Parties, Elections and Referendums Act 2000 Sch 12 para 1(4).

7 Ibid Sch 12 para 1(1)(a).

8 Ibid Sch 12 para 1(1)(b). As to persons entitled to vote in a referendum under the Political Parties, Elections and Referendums Act 2000 see para 118 ante.

9 Ibid Sch 12 para 1(2).

525. Schools and rooms available to designated organisations for meetings at referendums. Persons authorised by a designated organisation[1] are entitled, for the purpose of holding public meetings in furtherance of the organisation's referendum campaign[2] to the use free of charge of certain rooms at reasonable times during the period of 28 days ending with the day before the date of the poll[3].

Such a person is entitled to the use of a suitable room[4] in the premises of a community, foundation or voluntary school[5] whose premises are situated in the referendum area[6]. However, a person is not entitled to exercise the right so conferred except on reasonable notice; and the right does not authorise any interference with the hours during which a room in school premises is used for educational purposes[7].

Such a person is also entitled to the use free of charge of any meeting room[8] situated in the referendum area the expense of maintaining which is payable wholly or mainly out of public funds[9] or by any local authority, or by a body whose expenses are so payable[10]. However, a person is not entitled to exercise the right so conferred except on reasonable notice; and the right does not authorise any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose[11].

Where a room is used for a meeting in pursuance of the rights so conferred, the person by whom or on whose behalf the meeting is convened must: (1) defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting[12]; and (2) defray the cost of repairing any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises[13].

1 For the meaning of 'designated organisation' see para 523 note 5 ante. As to the meaning of 'organisation' see para 48 note 20 ante.

2 For the meaning of 'referendum campaign' see para 527 note 4 post.

3 Political Parties, Elections and Referendums Act 2000 s 110(4), Sch 12 para 2(1).

4 For these purposes, 'room' includes a hall, gallery or gymnasium: ibid Sch 12 para 2(6).

5 For these purposes, except those of ibid Sch 12 para 2(4)(b) (see the text and note 13 infra), the premises of a school is not to be taken to include any private dwelling, where 'dwelling' includes any part of a building where that part is occupied separately as a dwelling: Sch 12 para 2(6). As to community, foundation and voluntary schools see EDUCATION vol 15(1) (2006 Reissue) para 102 et seq.

6 Ibid Sch 12 para 2(1)(a), (2)(a). For this purpose, the 'referendum area' means the area throughout which the referendum is being held: Sch 12 para 2(7).

Any arrangements for the use of a room in school premises must be made with the local education authority maintaining the school or, in the case of a room in the premises of a foundation or voluntary aided school, with the governing body of the school: Sch 12 para 3(1), (2). Any question as to the rooms in school premises which a person authorised by a designated organisation is entitled to use, or as to the times at which he is entitled to use them, or as to the notice which is reasonable, must be determined by

the Secretary of State: Sch 12 para 3(1), (3). Any person authorised by a designated organisation is entitled at all reasonable hours to inspect any lists prepared in pursuance of the Representation of the People Act 1983 s 95(6), Sch 5 para 4 (use of rooms for parliamentary election meetings: see para 341 ante) or a copy of any such lists, in connection with exercising the rights conferred by the Political Parties, Elections and Referendums Act 2000 Sch 12 para 2: Sch 12 para 3(1), (4). As to the Secretary of State see para 2 ante. As to local education authorities see EDUCATION vol 15(1) (2006 Reissue) para 20 et seq.

7 Ibid Sch 12 para 2(5).

8 'Meeting room' means any room which it is the practice to let for public meetings: ibid Sch 12 para 2(6).

9 As to references to payments out of public funds see para 304 note 21 ante.

10 Political Parties, Elections and Referendums Act 2000 Sch 12 para 2(1)(b), (3). For the meaning of 'body' see para 53 note 2 ante.

11 Ibid Sch 12 para 2(5).

12 Ibid Sch 12 para 2(4)(a).

13 Ibid Sch 12 para 2(4)(b).

526. Broadcasting during referendum period. The British Broadcasting Corporation ('the BBC')[1] must have regard, in determining its policy with respect to referendum campaign broadcasts[2] by designated organisations[3], to any views expressed by the Electoral Commission[4] for these purposes[5].

1 As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 306 et seq.

2 For these purposes, 'referendum campaign broadcast' has the same meaning as in the Political Parties, Elections and Referendums Act 2000 s 127 (see para 544 post): s 110(4), Sch 12 para 6(7).

3 For the meaning of 'designated organisation' see para 523 note 5 ante.

4 As to the Electoral Commission see para 31 et seq ante.

5 Political Parties, Elections and Referendums Act 2000 Sch 12 para 4(6) (amended by the Communications Act 2003 s 406(1), Sch 17 para 167(1), (3)).

D. THE CAMPAIGN

(A) Controls on Referendum Expenses

(a) In general

527. Meaning of 'referendum expenses'. In relation to a referendum[1] to which the general framework provisions apply[2], 'referendum expenses' means expenses incurred by or on behalf of any individual or body[3] which are expenses incurred for referendum purposes[4] in respect of any of the matters set out in the following list[5]:

(1) referendum campaign broadcasts, including agency fees, design costs and other costs in connection with preparing or producing such broadcasts[6];

(2) advertising of any nature (whatever the medium used), including agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it[7];

(3) unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area or areas), including design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage)[8];

(4) any promotional material or other document providing information about the referendum or the issues or arguments[9] involved, including design costs and other costs in connection with preparing or producing or distributing or otherwise disseminating any such document[10];

(5) market research or canvassing conducted for the purpose of ascertaining polling intentions[11];

(6) the provision of any services or facilities in connection with press conferences or other dealings with the media[12];

(7) the transport (by any means) of persons to any place or places with a view to obtaining publicity in connection with a referendum campaign, including the costs of hiring a particular means of transport for the whole or part of the period during which the referendum campaign is being conducted[13];

(8) rallies and other events, including public meetings (but not annual or other party conferences) organised so as to obtain publicity in connection with a referendum campaign or for other purposes connected with a referendum campaign, including costs incurred in connection with the attendance of persons at such events, the hire of premises for the purposes of such events or the provision of goods, services or facilities at them[14].

Nothing in heads (1) to (8) above is to be taken as extending to any expenses:

(a) in respect of any property[15], services or facilities so far as those expenses fall to be met out of public funds[16];

(b) incurred in respect of the remuneration or allowances payable to any member of the staff (whether permanent or otherwise) of the campaign organiser[17]; or

(c) incurred in respect of an individual by way of travelling expenses (by any means of transport) or in providing for his accommodation or other personal needs to the extent that the expenses are paid by the individual from his own resources and are not reimbursed to him[18].

Where, in the case of any individual or body, either: (i) property is transferred to the individual or body[19]; or (ii) property, services or facilities is or are provided for the use or benefit of the individual or body[20], either free of charge or at a discount of more than 10 per cent[21], and the property, services or facilities is or are made use of by or on behalf of the individual or body in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the individual or body in respect of that use, they would be (or are) referendum expenses actually incurred by or on behalf of the individual or body[22], an amount of referendum expenses (the 'appropriate amount') is treated, for the purposes of the statutory provisions which govern the control of referendum expenses, as incurred by the individual or body during the period for which the property, services or facilities is or are so made use of[23]. Where the whole or part of any such period falls within any period which is, in relation to the referendum to which the expenses relate, the referendum period[24], then such proportion of the appropriate amount[25] as reasonably represents the use made of the property, services or facilities during the referendum period is treated as incurred by or on behalf of the individual or body during the referendum period[26] and, if a return falls to be prepared[27] in respect of referendum expenses incurred by or on behalf of the individual or body during that period, the responsible person[28] must make a declaration of that amount[29], unless that amount is not more than £200[30]. Where head (i) above applies, the appropriate amount is determined as being such proportion of either the market value of the property (where the property is transferred free of charge)[31] or the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the property (where the property is transferred at a discount)[32], as is reasonably attributable to the use made of the property[33]. Where head (ii) above applies, the appropriate amount is determined as being such proportion of either the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge)[34] or the difference between that commercial rate and the amount of expenses actually

incurred by or on behalf of the individual or body in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount)[35] as is reasonably attributable to the use made of the property, services or facilities[36]. However, no amount of referendum expenses is to be regarded as so incurred in respect of: (A) the transmission by a broadcaster[37] of a referendum campaign broadcast[38]; (B) the provision of any rights to assistance conferred[39] on a designated organisation (or persons authorised by such an organisation)[40]; or (C) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge[41].

The Electoral Commission[42] may prepare, and from time to time revise, a code of practice giving guidance as to the kinds of expenses which do, or do not, fall within the matters specified either in heads (1) to (8) above or heads (a) to (c) above[43]. Once the Commission has prepared a draft of such a code, it must submit it to the Secretary of State for his approval[44]; and he may approve a draft code either without modification or with such modifications as he may determine[45]. The Secretary of State may also by order make such amendments to the matters specified either in heads (1) to (8) above or heads (a) to (c) above as he considers appropriate[46]; and he may make such an order either where the order gives effect to a recommendation of the Electoral Commission[47] or after consultation with the Electoral Commission[48].

1 For the meaning of 'referendum' see para 519 ante.
2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended).
3 For the meaning of 'body' see para 53 note 2 ante. 'Campaign organiser', in relation to referendum expenses, means the individual or body by whom or on whose behalf the expenses are incurred: ibid s 111(1), (4).
4 Ibid s 111(1), (2). 'For referendum purposes' means: (1) in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to any question asked in the referendum (s 111(1), (3)(a)); or (2) otherwise in connection with promoting or procuring any such outcome (s 111(1), (3)(b)). 'Referendum campaign' means a campaign such as is mentioned in head (1) supra: s 111(1), (4). As to the meaning of 'question' see para 519 note 8 ante; and for the meaning of 'outcome' see para 521 note 19 ante.
5 Ie expenses falling within ibid s 111(1), (2), Sch 13 paras 1–2 (see heads (1)–(8) and (a)–(c) in the text): Sch 13 para 1.
6 Ibid Sch 13 para 1(1). As to referendum campaign broadcasts generally see para 544 post.
7 Ibid Sch 13 para 1(2).
8 Ibid Sch 13 para 1(3). As to a designated organisation's right to send referendum addresses to electors generally see para 524 ante.
9 Ie material to which ibid s 125 applies (see para 543 post).
10 Ibid Sch 13 para 1(4).
11 Ibid Sch 13 para 1(5).
12 Ibid Sch 13 para 1(6).
13 Ibid Sch 13 para 1(7).
14 Ibid Sch 13 para 1(8).
15 As to the meaning of 'property' see para 31 note 8 ante.
16 Political Parties, Elections and Referendums Act 2000 Sch 13 para 2(a). As to references to payments out of public funds see para 304 note 21 ante.
17 Ibid Sch 13 para 2(b).
18 Ibid Sch 13 para 2(c).
19 Ibid s 112(1)(a)(i). Any property given or transferred to any officer, member, trustee or agent of an individual or body in his capacity as such (and not for his own use or benefit) is to be regarded as given or transferred to the individual or body (and references to donations received by an individual or body accordingly include donations so given or transferred) (Sch 15 para 2(5); applied by s 112(10)); and any reference to property being given or transferred to an individual or body is a reference to its being so given or transferred either directly or indirectly through any third person (Sch 15 para 2(6)(a); applied by s 112(10)).
20 Ibid s 112(1)(a)(ii).
21 Ibid s 112(1)(a)(i), (ii). The discount referred to in the text is a discount of more than 10% of: (1) the market value of the property, in the case of head (i) in the text; or (2) the commercial rate for the use of the property or for the provision of the services or facilities, in the case of head (ii) in the text. For the

meaning of 'market value' see para 304 note 26 ante. Where the services of an employee are made available by his employer for the use or benefit of an individual or body, then for the purposes of determining referendum expenses, the amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by his employer in respect of the period for which his services are so made available (but do not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee): s 112(5).

22 Ibid s 112(1)(b).

23 Ibid s 112(2). This provision has effect subject to s 112(9) (see heads (A)–(C) in the text). The text refers to the use made of the property or goods as mentioned in s 112(1)(b) (see the text and note 22 supra).

24 As to the referendum period see para 519 ante.

25 Ie such proportion of the appropriate amount determined in accordance with the Political Parties, Elections and Referendums Act 2000 s 112(3), (4) (see the text and notes 31–36 infra).

26 Ibid s 112(6)(a), (7).

27 Ie under ibid s 120 (see para 534 post).

28 For the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.

29 Political Parties, Elections and Referendums Act 2000 s 112(6)(b). A person commits an offence if he knowingly or recklessly makes such a declaration which is false: see s 112(8); and para 754 post.

30 Ibid s 112(6). The Secretary of State may by order vary the sum for the time being specified in s 112(6): see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made. As to the Secretary of State see para 2 ante.

31 Ibid s 112(3)(a).

32 Ibid s 112(3)(b).

33 Ibid s 112(3). The text refers to the use made of the property as mentioned in s 112(1)(b) (see the text and note 22 supra).

34 Ibid s 112(4)(a).

35 Ibid s 112(4)(b).

36 Ibid s 112(4). The text refers to the use made of the property as mentioned in s 112(1)(b) (see the text and note 22 supra).

37 For the meaning of 'broadcaster' see para 304 note 43 ante.

38 Political Parties, Elections and Referendums Act 2000 s 112(9)(a). The text refers to referendum campaign broadcasts within the meaning of s 127 (see para 544 post): s 112(9)(a).

39 Ie by virtue of ibid s 110(4), Sch 12 (as amended) (see paras 523–526 ante).

40 Ibid s 112(9)(b).

41 Ibid s 112(9)(c).

42 As to the Electoral Commission see para 31 et seq ante.

43 Political Parties, Elections and Referendums Act 2000 s 160(1), Sch 13 para 3(1).

44 Ibid s 160(1), Sch 13 para 3(2).

45 Ibid Sch 13 para 3(3). For these purposes, references to a draft code include a revised draft code: Sch 13 para 3(10). Once the Secretary of State has approved a draft code he must lay a copy of the draft, whether in its original form or in a form which incorporates any modifications determined under Sch 13 para 3(3), before each House of Parliament: Sch 13 para 3(4). As to the meaning of 'modification' see para 39 note 9 ante. If the draft incorporates any such modifications, the Secretary of State must at the same time lay before each House a statement of his reasons for making them: Sch 13 para 3(5). If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State must take no further steps in relation to the draft code (Sch 13 para 3(6)); but if no such resolution is made within the 40-day period, the Secretary of State must issue the code in the form of the draft laid before Parliament, and the code is to come into force on such date as the Secretary of State may by order appoint (Sch 13 para 3(7)). The Commission must arrange for the code to be published in such manner as it thinks appropriate: Sch 13 para 3(7). The prohibition in Sch 13 para 3(6) from taking further action in relation to a draft code does not prevent a new draft code from being laid before Parliament: Sch 13 para 3(8). For these purposes, the '40-day period', in relation to a draft code, means, if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and, in any other case, the period of 40 days beginning with the day on which the draft is laid before each House: Sch 13 para 3(8). In calculating this period, no account is taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days: Sch 13 para 3(9).

46 Ibid Sch 13 para 4(1). At the date at which this volume states the law, no such order had been made.

47 Ibid Sch 13 para 4(2)(a).

48 Ibid Sch 13 para 4(2)(b).

528. Restriction on incurring referendum expenses without authority. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], no amount of referendum expenses may be incurred by or on behalf of a permitted participant[3] unless it is incurred with the authority of either: (1) the responsible person[4]; or (2) a person authorised in writing by the responsible person[5]. Where any expenses are incurred in contravention of this restriction by a permitted participant that is a registered party[6], the expenses do not count as referendum expenses incurred by or on behalf of the permitted participant either for the purposes of the statutory provisions which impose financial limits on such expenditure[7] or for the purposes of the statutory provisions which require returns as to such expenditure[8].

A person commits an offence if, without reasonable excuse, he incurs any expenses in contravention of the restriction on incurring referendum expenses[9].

1 For the meaning of 'referendum expenses' see para 527 ante.
2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.
3 For the meaning of 'permitted participant' see para 521 ante.
4 Political Parties, Elections and Referendums Act 2000 s 113(1)(a). For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.
5 Ibid s 113(1)(b).
6 For the meaning of 'registered party' see para 32 note 3 ante.
7 Ie the Political Parties, Elections and Referendums Act 2000 ss 117–119 (see paras 532–533 post).
8 Ibid s 113(3). The text refers to the statutory provisions in ss 120–123 (see paras 534–536 post).
9 See ibid s 113(2); and para 754 post.

529. Restrictions on payments in respect of referendum expenses. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], no payment (of whatever nature) may be made in respect of any referendum expenses incurred or to be incurred by or on behalf of a permitted participant[3] unless it is made by: (1) the responsible person[4]; or (2) a person authorised in writing by the responsible person[5]. Any payment made in respect of any such expenses by a person within head (1) or head (2) above must be supported by an invoice or a receipt unless it is not more than £200[6]; and where any such payment is made by a person within head (2) above, he must deliver to the responsible person both notification that he has made the payment[7] and the supporting invoice or receipt[8] as soon as possible after making the payment[9].

A person commits an offence if, without reasonable excuse, he makes any payment in contravention of the restriction on payments made in respect of referendum expenses or if he is a person within head (2) above who contravenes the requirements imposed on such a person regarding the delivery of notification and evidence[10].

1 For the meaning of 'referendum expenses' see para 527 ante.
2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.
3 For the meaning of 'permitted participant' see para 521 ante.
4 Political Parties, Elections and Referendums Act 2000 s 114(1)(a). For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.
5 Ibid s 114(1)(b).
6 Ibid s 114(2). The Secretary of State may by order vary the sum for the time being specified in s 114(2): see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made.
7 Ibid s 114(3)(a). Any notification required to be given under the Political Parties, Elections and Referendums Act 2000 must be in writing: s 157(1).
8 Ibid s 114(3)(b).
9 Ibid s 114(3).
10 See ibid s 114(4); and para 754 post.

530. Claims in respect of referendum expenses. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], a claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant[3] during a referendum period[4] is not payable unless the claim is sent[5] to the responsible person[6], or any other person authorised[7] to incur the expenses[8], not later than 30 days[9] after the end of the referendum period[10]. Any claim so sent must be paid not later than 60 days after the end of the referendum period[11]; but this is without prejudice to any rights of a creditor of a permitted participant to obtain payment before the end of the period so allowed[12].

A person commits an offence if, without reasonable excuse, he pays any claim for payment in respect of referendum expenses which by virtue of being statute-barred[13] is not payable or if he makes any payment in respect of a claim after the end of the period allowed for the payment of claims[14].

If the responsible person or other person to whom a claim for payment in respect of referendum expenses is sent fails or refuses to pay the claim within the period allowed[15], where the claim[16] is sent to the responsible person[17] or to any other person with whose authority it is alleged that the expenditure was incurred[18] within the period allowed before such claims are barred[19], the claim is deemed to be a disputed claim[20]. The person by whom the disputed claim is made may bring an action for a disputed claim, and any sum paid in pursuance of a court's judgment or order so made in the proceedings is not deemed to be in contravention of the statutory provision forbidding payment of referendum expenses later than 42 days after the end of the referendum period[21].

1 For the meaning of 'referendum expenses' see para 527 ante.

2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.

3 For the meaning of 'permitted participant' see para 521 ante.

4 As to the referendum period see para 519 ante.

5 Political Parties, Elections and Referendums Act 2000 s 115(1).

6 Ibid s 115(1)(a). For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.

7 Ie authorised in writing by the responsible person under ibid s 113 (see para 528 ante).

8 Ibid s 115(1)(b).

9 Where, in the case of any referendum expenses, the period allowed under ibid s 115(1) (as amended) or s 115(2) (as amended) (see the text and note 11 infra) would otherwise end on: (1) a Saturday or Sunday, Christmas Eve, Christmas Day or Good Friday (s 77(9)(a) (amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 54, Sch 2); applied by the Political Parties, Elections and Referendums Act 2000 s 115(7)); (2) a bank holiday (s 77(9)(b); applied by s 115(7)); or (3) a day appointed for public thanksgiving or mourning (s 77(9)(c); applied by s 115(7)), the period instead ends on the first day following that day which is not one of those days (s 77(9); applied by s 115(7)). For the purposes of head (2) supra, 'bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in any part of the United Kingdom: (a) in which is situated the office of the responsible person in relation to the permitted participant or (as the case may be) other authorised person to whom the claim is sent pursuant to the Political Parties, Elections and Referendums Act 2000 s 115(1) (as amended) (s 77(10)(a); applied by 115(7)); or (b) in which the person providing the property, services or facilities to which the expenses relate conducts his business (s 77(10)(b); applied by 115(7)); or (c) (if he conducts his business in more than one part of the United Kingdom) in which is situated the office from which dealings relating to the expenses were conducted (s 77(10)(c); applied by 115(7)). For these purposes, the address of the responsible person in relation to the permitted participant is to be regarded as being the registered address of the permitted participant: s 74(10)(a); applied by 115(7). 'Business' includes every trade, profession and occupation: s 160(1). For the meaning of 'United Kingdom' see para 13 note 1 ante. As to the meaning of 'property' see para 31 note 8 ante.

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 54 has no effect in relation to a poll held on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday appears in the list of days excluded under head (1) supra.

10 Political Parties, Elections and Referendums Act 2000 s 115(1) (amended by the Electoral Administration Act 2006 s 65(3)(a)).
11 Political Parties, Elections and Referendums Act 2000 s 115(2) (amended by the Electoral Administration Act 2006 s 65(3)(b)).
12 Political Parties, Elections and Referendums Act 2000 s 115(6).
13 Ie by virtue of ibid s 115(1) (as amended) (see the text and notes 1–10 supra).
14 See ibid s 115(3); and para 754 post. The text refers to payment in respect of a claim after the end of the period allowed under s 115(2) (as amended) (see the text and note 11 supra).
15 Ibid s 116(1)(b). The text refers to the period allowed under s 115(2) (as amended) (see the text and note 11 supra), which is without prejudice to any rights of a creditor of a registered party to obtain payment before the end of the period so allowed (s 115(6)).
16 Ie the claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant as mentioned in ibid s 115(1) (as amended) (see the text and notes 1–10 supra).
17 Ibid s 116(1)(a)(i).
18 Ibid s 116(1)(a)(ii).
19 Ibid s 116(1)(a). The text refers to the period allowed under s 115(1) (as amended) (see the text and notes 1–10 supra).
20 Ibid s 116(1). As to the power to apply to the court for leave to pay a disputed claim see para 531 post; and as to the returns of disputed claims see para 534 post.
21 Ibid s 116(2). The text refers to the restriction otherwise contained in s 115(2) (as amended) (see the text and note 11 supra).

531. Application for leave to pay claims in respect of referendum expenses. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], the person making a claim for payment in respect of referendum expenses incurred by or on behalf of a permitted participant[3] during a referendum period[4], or the person with whose authority the expenses in question were incurred[5], may apply to the High Court or to the county court for leave to pay such a claim (even if it is sent in after the statutory period allowed of 30 days[6]) or may apply to the High Court or to the county court for leave to pay a disputed claim[7]. The court, if satisfied that for any special reason it is appropriate to do so, may by order grant the leave[8]. Any sum paid in pursuance of such an order of leave is not deemed to be a contravention of the provisions forbidding the making or payment of claims relating to referendum expenses later than the statutory period allowed[9].

1 For the meaning of 'referendum expenses' see para 527 ante.
2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.
3 For the meaning of 'permitted participant' see para 521 ante.
4 Political Parties, Elections and Referendums Act 2000 s 115(4)(a). The text refers to a claim to which s 115(1) (as amended) applies (see para 530 ante). As to the referendum period see para 519 ante.
5 Ibid s 115(4)(b). As to persons authorised to incur expenditure as mentioned in the text see s 113; and para 528 ante.
6 Ie the period mentioned in ibid s 115(1) (as amended) (see para 530 ante).
7 Ibid ss 115(4), 116(3).
8 Ibid ss 115(4), 116(3).
9 Ibid ss 115(5), 116(3). The text refers to the period of 30 days within which a claim must be made under s 115(1) (as amended) or the period of 60 days within which a claim must be paid under s 115(2) (as amended) (see para 530 ante). As to the returns of sums paid in pursuance of the leave see para 534 post.

(b) Financial Limits on Referendum Expenses

532. General restriction on referendum expenses for individual or body that is not a permitted participant. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], the total referendum expenses incurred by or on behalf of any individual or body[3] during the referendum period[4] in the case of a particular referendum to which the general framework provisions apply[5] must not exceed £10,000[6] unless the individual or body is a permitted participant[7].

Where, at any time before the beginning of any referendum period, any expenses falling within the matters which qualify as referendum expenses[8] are incurred by or on behalf of an individual or body in respect of any property[9], services or facilities[10], but the property, services or facilities is or are made use of by or on behalf of the individual or body during the referendum period in circumstances such that, had any expenses been incurred in respect of that use during that period, they would[11] have constituted referendum expenses incurred by or on behalf of the individual or body during that period[12], the appropriate proportion of those expenses[13] is treated, for the purposes of imposing a general restriction on referendum expenses for an individual or body that is not a permitted participant[14], as referendum expenses incurred by or on behalf of the individual or body during that period[15].

Where, during the referendum period, any referendum expenses are incurred in excess of the general restriction imposed on such expenses by or on behalf of any individual or body who is not a permitted participant, any such individual or any person who authorised the expenses to be incurred by or on behalf of such a body is guilty of an offence if he knew or ought reasonably to have known that the expenditure would be incurred in excess of that limit; and the body in question is also guilty of an offence[16].

1 For the meaning of 'referendum expenses' see para 527 ante.
2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.
3 For the meaning of 'body' see para 53 note 2 ante.
4 As to the referendum period see para 519 ante.
5 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended).
6 The Secretary of State may by order vary the sum for the time being specified in ibid s 117(1): see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made.
7 Ibid s 117(1). For the meaning of 'permitted participant' see para 521 ante.
8 Ie any expenses falling within ibid s 111(2) (see para 527 ante).
9 As to the meaning of 'property' see para 31 note 8 ante.
10 Political Parties, Elections and Referendums Act 2000 s 117(5)(a).
11 Ie by virtue of ibid s 111(2) (see para 527 ante).
12 Ibid s 117(5)(b).
13 Ie the expenses mentioned in ibid s 117(5)(a) (see the text and notes 8–10 supra). For these purposes, the appropriate proportion of the expenses mentioned in s 117(5)(a) is such proportion of those expenses as is reasonably attributable to the use made of the property, services or facilities as mentioned in s 117(5)(b) (see the text and notes 11–12 supra): s 117(6).
14 Ie for the purposes of ibid s 117.
15 Ibid s 117(5).
16 See ibid s 117(2)–(4); and para 754 post.

533. Special restrictions on referendum expenses for permitted participants. In relation to a referendum[1] held throughout the United Kingdom[2], the limit on referendum expenses[3] incurred by or on behalf of a permitted participant[4] during the referendum period[5] in the case of such a referendum is[6]:

(1) £5 million in the case of a person or body designated for assistance[7];
(2) in the case of a registered party[8] by which a declaration has been made in relation to the referendum[9] but which has not been designated for assistance[10]:
  (a) £5 million, if the party's relevant percentage[11] exceeds 30 per cent[12];
  (b) £4 million, if the party's relevant percentage is more than 20 per cent but not more than 30 per cent[13];
  (c) £3 million, if the party's relevant percentage is more than 10 per cent but not more than 20 per cent[14];
  (d) £2 million, if the party's relevant percentage is more than 5 per cent but not more than 10 per cent[15];
  (e) £500,000, if the party's relevant percentage is not more than 5 per cent or if it has no relevant percentage[16]; and

(3) £500,000 in the case of a person or body by whom a notification has been given in relation to the referendum[17] but who has not been designated for assistance[18].

In relation to a referendum which is not held throughout the United Kingdom[19], the limit on referendum expenses incurred by or on behalf of a permitted participant during the referendum period in the case of such a referendum is such amount as the Secretary of State[20] may by order prescribe[21]. Before making such an order, the Secretary of State must seek, and have regard to, the views of the Electoral Commission[22]; but where he proposes to make such an order otherwise than in accordance with the views of the Commission, he must on laying a draft of a statutory instrument containing the order before each House of Parliament also lay before each House a statement of his reasons for departing from the views of the Commission[23].

Where, at any time before the beginning of any referendum period, any expenses falling within the matters which qualify as referendum expenses[24] are incurred by or on behalf of an individual or body in respect of any property[25], services or facilities[26], but the property, services or facilities is or are made use of by or on behalf of the individual or body during the referendum period in circumstances such that, had any expenses been incurred in respect of that use during that period, they would[27] have constituted referendum expenses incurred by or on behalf of the individual or body during that period[28], the appropriate proportion of those expenses[29] is treated, for the purposes of imposing special restrictions on referendum expenses incurred by or on behalf of permitted participants[30], as referendum expenses incurred by or on behalf of the individual or body during that period[31].

Where, during the referendum period, any referendum expenses are incurred in excess of the special restrictions imposed on such expenses by or on behalf of any permitted participant, the permitted participant or other person who authorised the expenses is guilty of an offence if he knew or ought reasonably to have known that the expenditure would be incurred in excess of that limit; and the body or party in question is also guilty of an offence[32].

1 For the meaning of 'referendum' see para 519 ante.

2 Ie a referendum falling within the Political Parties, Elections and Referendums Act 2000 s 101(1)(a) (see para 519 ante). For the meaning of 'United Kingdom' see para 13 note 1 ante.

3 For the meaning of 'referendum expenses' see para 527 ante.

4 For the meaning of 'permitted participant' see para 521 ante.

5 For the purposes of the Political Parties, Elections and Referendums Act 2000 ss 118, 120–123, Sch 14, any reference to referendum expenses incurred by or on behalf of a permitted participant during the referendum period includes any referendum expenses so incurred at any time before the individual or body became a permitted participant: s 118(5). For the meaning of 'body' see para 53 note 2 ante. As to the referendum period see para 519 ante.

6 Ibid s 118(1), Sch 14 para 1(1), (2). The Secretary of State may by order vary the sum for the time being specified in Sch 14: see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made.

7 Ibid Sch 14 para 1(2)(a). The text refers to a person or body designated under s 108 (see para 522 ante).

8 For the meaning of 'registered party' see para 32 note 3 ante.

9 Ie which falls within the Political Parties, Elections and Referendums Act 2000 s 105(1)(a) (see para 521 ante).

10 Ibid Sch 14 para 1(2)(b). The text refers to a registered party which has not been designated under s 108 (see para 522 ante).

11 For these purposes: (1) a registered party has a relevant percentage in relation to a referendum if, at the last parliamentary general election taking place before the referendum, votes were cast for one or more candidates at the election authorised to use the party's registered name (ibid Sch 14 para 1(3)(a)); and (2) the amount of its relevant percentage is equal to the percentage of the total number of votes cast for all candidates at that election which is represented by the total number of votes cast for the candidate or candidates mentioned in head (1) supra (Sch 14 para 1(3)(b)). Where at any such general election a candidate was authorised to use the registered name of more than one registered party, then for the

purposes of head (2) supra as it applies in relation to each of those parties, the number of votes cast for the candidate must be taken to be the total number cast for him divided by the number of parties: Sch 14 para 1(4). As to parliamentary general elections see para 196 et seq ante.

12 Ibid Sch 14 para 1(2)(b)(i).
13 Ibid Sch 14 para 1(2)(b)(ii).
14 Ibid Sch 14 para 1(2)(b)(iii).
15 Ibid Sch 14 para 1(2)(b)(iv).
16 Ibid Sch 14 para 1(2)(b)(v).
17 Ie which falls within ibid s 105(1)(b) (see para 521 ante).
18 Ibid Sch 14 para 1(2)(c). The text refers to a person or body who has not been designated under s 108 (see para 522 ante).
19 Ie a referendum to which ibid Pt VII (ss 101–129) (as amended) applies, other than one falling within s 101(1)(a) (see para 519 ante).
20 As to the Secretary of State see para 2 ante.
21 Political Parties, Elections and Referendums Act 2000 Sch 14 para 2(1), (2). Different amounts may be prescribed for different referendums or different categories of permitted participants: Sch 14 para 2(3). See the Regional Assembly and Local Government Referendums (Expenses Limits for Permitted Participants) Order 2004, SI 2004/1961.
22 Political Parties, Elections and Referendums Act 2000 s 160(1), Sch 14 para 2(4). As to the Electoral Commission see para 31 et seq ante.
23 Ibid Sch 14 para 2(4).
24 Ie any expenses falling within ibid s 111(2) (see para 527 ante).
25 As to the meaning of 'property' see para 31 note 8 ante.
26 Political Parties, Elections and Referendums Act 2000 s 117(5)(a); applied by s 118(4).
27 Ie by virtue of ibid s 111(2) (see para 527 ante).
28 Ibid s 117(5)(b); applied by s 118(4).
29 Ie the expenses mentioned in ibid s 117(5)(a) (as applied) (see the text and notes 24–26 supra). For these purposes, the appropriate proportion of the expenses mentioned in s 117(5)(a) (as applied) is such proportion of those expenses as is reasonably attributable to the use made of the property, services or facilities as mentioned in s 117(5)(b) (as applied) (see the text and notes 27–28 supra): s 117(6); applied by s 118(4).
30 Ie for the purposes of ibid s 118.
31 Ibid s 117(5); applied by s 118(4).
32 See ibid s 118(2)–(3); and para 754 post.

(c) Returns as to Referendum Expenses

534. Returns as to referendum expenses. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], where any referendum expenses are incurred by or on behalf of a permitted participant[3] during any referendum period[4] and that period ends[5], the responsible person[6] must make a return in respect of referendum expenses incurred by or on behalf of the permitted participant during that period[7].

Such a return must specify the referendum to which the expenditure relates, and must contain[8]:

(1) a statement of all payments made in respect of referendum expenses incurred by or on behalf of the permitted participant during the referendum period in question[9];
(2) a statement of all disputed claims[10];
(3) a statement of all the unpaid claims (if any) of which the responsible person is aware in respect of which an application has been made, or is about to be made, to a court for leave to pay the claim[11]; and
(4) in a case where the permitted participant either is not a registered party[12] or is a minor party[13], a statement of relevant donations[14] received in respect of the referendum which complies with the relevant requirements for such statements[15].

Such a return must be accompanied by:

(a) all invoices or receipts relating to the payments mentioned in head (1) above[16]; and

(b) in the case of any referendum expenses in relation to which an appropriate amount is treated as incurred by the permitted participant[17], any declaration falling to be made with respect to those expenses[18].

Where any referendum expenses are incurred at any time before the individual or body[19] became a permitted participant, the requirement to make such a return does not apply in relation to such expenses but the return must be accompanied by a declaration made by the responsible person of the total amount of such expenses incurred at any such time[20].

A report must be prepared by a qualified auditor[21] on such a return in respect of referendum expenses where, during any referendum period, the referendum expenses incurred by or on behalf of a permitted participant exceeds £250,000[22].

1 For the meaning of 'referendum expenses' see para 527 ante.
2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.
3 For the meaning of 'permitted participant' see para 521 ante.
4 Political Parties, Elections and Referendums Act 2000 s 120(1)(a). The text refers to a referendum period within the meaning of s 102 (see para 519 ante). As to the meaning of references, for these purposes, to referendum expenses incurred by or on behalf of a permitted participant during the referendum period see para 533 note 5 ante.
5 Ibid s 120(1)(b).
6 For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.
7 Political Parties, Referendums and Referendums Act 2000 s 120(1).
8 Ibid s 120(2). The Electoral Commission may by regulations prescribe a form of return which may be used for these purposes: ss 120(5), 160(1). Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further para 42 ante. As to the Electoral Commission see para 31 et seq ante.
9 Ibid s 120(2)(a).
10 Ibid s 120(2)(b). The text refers to all disputed claims within the meaning of s 116 (see para 530 ante).
11 Ibid s 120(2)(c). The text refers to an application for leave to pay claims in respect of referendum expenses made under s 115(4) (see para 531 ante).
12 For the meaning of 'registered party' see para 32 note 3 ante.
13 For the meaning of 'minor party' see para 260 note 8 ante.
14 For these purposes, 'relevant donation' has the same meaning as in the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended) (see para 538 note 12 post): s 120(6).
15 Ibid s 120(2)(d). The text refers to the requirement for a statement of relevant donations to comply with Sch 15 paras 10–11 (as amended) (see para 542 post).
16 Ibid s 120(3)(a).
17 Ie by virtue of ibid s 112 (see para 527 ante).
18 Ibid s 120(3)(b). The text refers to a declaration falling to be made under s 112(6) (see para 527 ante).
19 For the meaning of 'body' see para 53 note 2 ante.
20 Political Parties, Elections and Referendums Act 2000 s 120(4).
21 In relation to the appointment of an auditor to prepare a report under ibid s 121(1) (or, as the case may be, an auditor so appointed), s 43(6), (7) (regulations made by the Electoral Commission with respect to the appointment of auditors: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) and s 44 (as amended) (supplementary provisions about auditors: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) apply as they apply in relation to the appointment of an auditor to carry out an audit under s 43 (annual audits: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) (or, as the case may be, an auditor so appointed): s 121(2). For the meaning of 'qualified auditor' see para 303 note 5 ante. As to the general accounting requirements for permitted participants that are registered parties see para 303 ante.
22 Ibid s 121(1). The Secretary of State may by order vary the sum for the time being specified in s 121(1): see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made.

535. Delivery of returns as to referendum expenses to the Electoral Commission. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], where any return as to referendum expenses falls to be prepared[3]

in respect of referendum expenses incurred by or on behalf of a permitted participant[4], and an auditor's report on it falls to be prepared also[5], the responsible person[6] must deliver the return to the Electoral Commission[7], together with a copy of the auditor's report, within six months of the end of the relevant referendum period[8]. In the case of any other such return which falls to be prepared[9], the responsible person must deliver the return to the Commission within three months of the end of the relevant referendum period[10].

Where, after the date on which a return is so delivered to the Commission, leave is given by a court for any claim to be paid[11], the responsible person must, within seven days after the payment, deliver to the Commission a return of any sums paid in pursuance of the leave accompanied by a copy of the order of the court giving the leave[12].

The responsible person commits an offence if, without reasonable excuse, he fails to comply with the requirements as to any return or auditor's report[13]; and, notwithstanding any criminal liability of any person, the permitted participant is liable to a civil penalty[14].

1 For the meaning of 'referendum expenses' see para 527 ante.
2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.
3 Ie under the Political Parties, Elections and Referendums Act 2000 s 120 (see para 534 ante).
4 Ibid s 122(1)(a). For the meaning of 'permitted participant' see para 521 ante. As to the meaning of references, for these purposes, to referendum expenses incurred by or on behalf of a permitted participant during the referendum period see para 533 note 5 ante.
5 Ibid s 122(1)(b). The text refers to an auditor's report on a return as to campaign expenditure which falls to be prepared under s 121(1) (see para 534 ante).
6 For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.
6 As to the Electoral Commission see para 31 et seq ante.
7 Political Parties, Elections and Referendums Act 2000 ss 122(1), 160(1). As to the referendum period see para 519 ante.
8 Ie under ibid s 120 (see para 534 ante).
10 Ibid s 122(2).
11 Ie leave to pay claims in respect of campaign expenditure given under ibid s 115(4) (see para 531 ante).
12 Ibid s 122(3).
13 See ibid s 122(4); and para 754 post.
14 See ibid s 147(1)(g), (2); and para 757 post.

536. Declaration made in relation to returns as to referendum expenses. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], each return[3] in respect of referendum expenses incurred by or on behalf of a permitted participant[4] must be accompanied by a declaration which is signed by the responsible person[5] and which must state that the responsible person has examined the return in question[6] and that, to the best of his knowledge and belief[7], it is a complete and correct return as required by law[8] and all expenses shown in it as paid have been paid by him or by a person authorised by him[9]. The declaration must also state, in a case where the permitted participant either is not a registered party[10] or is a minor party[11], that all relevant donations[12] recorded in the return as having been accepted by the permitted participant are from permissible donors[13] and that no other relevant donations have been accepted by the permitted participant[14].

A person commits an offence if he knowingly or recklessly makes such a declaration falsely or if the requirements as to such a declaration are contravened at a time when he is the responsible person in the case of the permitted participant to which the return relates[15].

1 For the meaning of 'referendum expenses' see para 527 ante.

2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.
3 Ie each return as to referendum expenses prepared under the Political Parties, Elections and Referendums Act 2000 s 120 (see para 534 ante).
4 For the meaning of 'permitted participant' see para 521 ante. As to the meaning of references, for these purposes, to referendum expenses incurred by or on behalf of a permitted participant during the referendum period see para 533 note 5 ante.
5 Political Parties, Elections and Referendums Act 2000 ss 123(1), 160(1). For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.
6 Ibid s 123(2)(a).
7 Ibid s 123(2)(b).
8 Ibid s 123(2)(b)(i).
9 Ibid s 123(2)(b)(ii). As to persons authorised to incur referendum expenses see para 528 ante.
10 For the meaning of 'registered party' see para 32 note 3 ante.
11 For the meaning of 'minor party' see para 260 note 8 ante.
12 For these purposes, 'relevant donation' has the same meaning as in the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended) (see para 538 note 12 post): s 123(5).
13 Ibid s 123(3)(a). For the meaning of 'permissible donor' see para 539 post.
14 Ibid s 123(3)(b).
15 See ibid s 123(4); and para 754 post.

537. Public inspection of returns as to referendum expenses. For the purposes of controlling referendum expenses[1] incurred for referendum purposes[2], where the Electoral Commission[3] receives any return as to referendum expenses[4], it must[5], as soon as reasonably practicable after receiving the return, make a copy of the return, and of any documents accompanying it, available for public inspection[6] and keep any such copy available for public inspection for the period for which the return or other document is kept by it[7]. If the return contains a statement of relevant donations[8], the Commission must secure that the copy of the statement made available for public inspection does not include, in the case of any donation by an individual, the donor's address[9].

Where the Commission is for the time being required to make available for public inspection a copy of any document in this way, it must make the copy available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by it[10], although the Commission may make other arrangements for members of the public to have access to the document's contents[11]. If requested to do so by any person, the Commission must supply him with a copy of the document or any part of it[12]; and the Commission may charge such reasonable fee as it may determine in respect of any inspection or access so allowed or any copy so supplied[13]. Where any such document is held by the Commission in electronic form, any copy so made available for public inspection or so supplied must be made available, or (as the case may be) supplied, in a legible form[14].

At the end of the period of two years beginning with the date when any such return or other document is received by the Commission[15], it may cause the return or other document to be destroyed[16]; but, if requested to do so by the responsible person[17] in the case of the permitted participant concerned, it must arrange for the return or other document to be returned to that person[18].

1 For the meaning of 'referendum expenses' see para 527 ante.
2 For the meaning of 'for referendum purposes' see para 527 note 4 ante.
3 As to the Electoral Commission see para 31 et seq ante.
4 Ie any return as to referendum expenses prepared under the Political Parties, Elections and Referendums Act 2000 s 120 (see para 534 ante). As to the delivery of returns to the Electoral Commission see para 535 ante.
5 Ibid ss 124(1), 160(1).
6 Ibid s 124(1)(a).
7 Ibid s 124(1)(b).

8 Ie in accordance with ibid s 120(2)(d) (see para 534 ante).
9 Ibid s 124(2).
10 Ibid s 149(2), (6)(d).
11 Ibid s 149(3), (6)(d).
12 Ibid s 149(4), (6)(d).
13 Ibid s 149(5), (6)(d).
14 Ibid s 149(7).
15 Ibid s 124(3).
16 Ibid s 124(3)(a).
17 For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.
18 Political Parties, Elections and Referendums Act 2000 s 124(3)(b).

(B) Controls on Donations received by certain Permitted Participants

538. Meaning of 'donation' in relation to certain permitted participants at a referendum. For the purposes of controlling donations at a referendum[1] to permitted participants[2] that either are not registered parties[3] or are minor parties[4], 'donation' means[5], in relation to a permitted participant[6]: (1) any gift[7] to the permitted participant[8] of money or other property[9]; (2) any sponsorship provided in relation to the permitted participant[10]; (3) any money spent (otherwise than by or on behalf of the permitted participant) in paying any referendum expenses[11] incurred by or on behalf of the permitted participant[12]; (4) any money lent to the permitted participant otherwise than on commercial terms[13]; (5) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the permitted participant (including the services of any person)[14]; (6) in the case of a permitted participant other than an individual, any subscription or other fee paid for affiliation to, or membership of, the permitted participant[15].

Where anything would be a donation both by virtue of head (2) above and by virtue of any other provision mentioned in head (1) or heads (3) to (6) above, head (2) above applies in relation to that donation to the exclusion of the other provision[16]. Any donation whose value is not more than £200 is disregarded[17]; and none of the following is to be regarded as a donation: (a) any grant provided out of public funds[18], other than a grant provided to a designated organisation[19]; (b) the provision of any rights to assistance conferred on a designated organisation (or person authorised by a designated organisation)[20]; (c) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge[21]; (d) any interest accruing to a permitted participant in respect of any donation which is sent back by the permitted participant[22].

For these purposes, 'sponsorship' is provided in relation to a permitted participant if any money or other property is transferred to the permitted participant or to any person for the benefit of the permitted participant[23] and the purpose (or one of the purposes) of the transfer is, or must, having regard to all the circumstances, reasonably be assumed to be[24] either to help the permitted participant with meeting, or to meet, to any extent any defined expenses[25] incurred or to be incurred by or on behalf of the permitted participant[26] or to secure that to any extent any such expenses are not so incurred[27]. However, for these purposes: (i) the making of any payment in respect of any charge for admission to any conference, meeting or other event[28] or in respect of the purchase price of, or any other charge for access to, any publication[29]; or (ii) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication[30], do not constitute sponsorship[31].

1 For the meaning of 'referendum' see para 519 ante.
2 For the meaning of 'permitted participant' see para 521 ante; but see also note 6 infra.

3 For the meaning of 'registered party' see para 32 note 3 ante.

4 Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 para 1(1). For the meaning of 'minor party' see para 260 note 8 ante.

5 Ie subject to ibid Sch 15 para 4 (see the text and notes 17–22 infra). For these purposes, 'donation' must be construed in accordance with Sch 1 paras 2–4 (see the text and notes 6–31 infra): Sch 15 para 1(5).

6 Ibid Sch 15 para 2(1). In accordance with Sch 15 para 1(1) (see the text and notes 1–4 supra), 'permitted participant' does not for these purposes include a permitted participant which is a registered party other than a minor party: Sch 15 para 1(2), (3).

7 For these purposes, 'gift' includes bequest (and thus any form of testamentary disposition): ibid s 160(1), Sch 15 para 2(6)(b).

8 For these purposes, any reference to anything being given or transferred to a permitted participant or any other person is a reference to its being given or transferred either directly or indirectly through any third person: ibid Sch 15 para 2(6)(a). Anything given or transferred to any officer, member, trustee or agent of a permitted participant in his capacity as such (and not for his own use or benefit) is to be regarded as given or transferred to the permitted participant (and references to donations received by a permitted participant accordingly include donations so given or transferred): Sch 15 para 2(5).

9 Ibid Sch 15 para 2(1)(a). Where: (1) any money or other property is transferred to a permitted participant pursuant to any transaction or arrangement involving the provision by or on behalf of the permitted participant of any property, services or facilities or other consideration of monetary value (Sch 15 para 2(2)(a)); and (2) the total value in monetary terms of the consideration so provided by or on behalf of the permitted participant is less than the value of the money or (as the case may be) the market value of the property transferred (Sch 15 para 2(2)(b)), the transfer of the money or property constitutes a gift to the permitted participant for the purposes of Sch 15 para 2(1)(a), but subject to Sch 15 para 2(4) (see the text and note 16 infra) (Sch 15 para 2(2)). The value of any donation falling within Sch 15 para 2(1)(a), other than money, must be taken to be the market value of the property in question: Sch 15 para 5(1). However, where Sch 15 para 2(1)(a) applies by virtue of Sch 15 para 2(2), the value of the donation must be taken to be the difference between: (a) the value of the money (or the market value of the property) in question (Sch 15 para 5(2)(a)); and (b) the total value in monetary terms of the consideration provided by or on behalf of the permitted participant (Sch 15 para 5(2)(b)). For the meaning of 'market value' see para 304 note 26 ante. As to the meaning of 'property' see para 31 note 8 ante.

10 Ibid Sch 15 para 2(1)(b). For these purposes, sponsorship provided in relation to the permitted participant is defined by Sch 15 para 3 (see the text and notes 23–31 infra): Sch 15 para 2(1)(b). The value of any donation falling within Sch 15 para 2(1)(b) is taken to be the value of the money or (as the case may be) the market value of the property, transferred as mentioned in Sch 15 para 3(1) (see the text and notes 23–27 infra); and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question must be disregarded: Sch 15 para 5(3).

11 For the meaning of 'referendum expenses' see para 527 ante.

12 Political Parties, Elections and Referendums Act 2000 Sch 15 para 2(1)(c). As to the meaning of references to referendum expenses incurred by or on behalf of a permitted participant during the referendum period see para 533 note 5 ante. In relation to a permitted participant at a referendum, a donation to the permitted participant for the purpose of meeting referendum expenses incurred by or on behalf of the permitted participant is referred to as a 'relevant donation': Sch 15 para 1(4).

13 Ibid Sch 15 para 2(1)(d). In determining, for these purposes, whether any money lent to a permitted participant is so lent otherwise than on commercial terms (Sch 15 para 2(3)(a)), regard must be had to the total value in monetary terms of the consideration provided by or on behalf of the permitted participant in respect of the loan or the provision of the property, services or facilities (Sch 15 para 2(3)). The value of any donation falling within Sch 15 para 2(1)(d) or Sch 15 para 2(1)(e) (see head (5) in the text) is taken to be the amount representing the difference between: (1) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the permitted participant in respect of the loan or the provision of the property, services or facilities if the loan had been made or the property, services or facilities had been provided, on commercial terms (Sch 15 para 5(4)(a)); and (2) the total value in monetary terms of the consideration, if any, actually so provided by or on behalf of the permitted participant (Sch 15 para 5(4)(b)). Where such a donation confers an enduring benefit on the donee over a particular period, the value of the donation is determined at the time when it is made, but must be so determined by reference to the total benefit accruing to the donee over that period: Sch 15 para 5(5).

14 Ibid Sch 15 para 2(1)(e). In determining, for these purposes, whether any property, services or facilities provided for the use or benefit of a permitted participant is or are so provided otherwise than on commercial terms (Sch 15 para 2(3)(b)), regard must be had to the total value in monetary terms of the consideration provided by or on behalf of the permitted participant in respect of the loan or the provision of the property, services or facilities (Sch 15 para 2(3)). See also note 13 supra.

15 Ibid Sch 15 para 2(1)(f).

16 Ibid Sch 15 para 2(4). In the circumstances mentioned in the text, the general provisions as to sponsorship (see the text and notes 23–31 infra) apply as well as the provision mentioned in head (2) in the text: Sch 15 para 2(4).
17 Ibid Sch 15 para 4(2). The value is determined in accordance with Sch 15 para 5 (see notes 9, 10, 13 supra). The Secretary of State may by order vary the sum for the time being specified in Sch 15 (as amended): see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made.
18 As to references to payments out of public funds see para 304 note 21 ante.
19 Political Parties, Elections and Referendums Act 2000 Sch 15 para 4(1)(a). For the meaning of 'designated organisation' see para 523 note 5 ante. The text refers to a grant other than a grant provided to a designated organisation by virtue of s 110(2) (see para 523 ante).
20 Ibid Sch 15 para 4(1)(b). The text refers to any right conferred on a designated organisation by virtue of s 110(4), Sch 12 (as amended) (see paras 523–526 ante).
21 Ibid Sch 15 para 4(1)(c).
22 Ibid Sch 15 para 4(1)(d). The text refers to a donation which is dealt with by the permitted participant in accordance with s 56(2)(a), (b) (as applied) (see para 540 post).
23 Ibid Sch 15 para 3(1)(a).
24 Ibid Sch 15 para 3(1)(b).
25 For this purpose, 'defined expenses' means expenses in connection with: (1) any conference, meeting or other event organised by or on behalf of the permitted participant (ibid Sch 15 para 3(2)(a)); (2) the preparation, production or dissemination of any publication by or on behalf of the permitted participant (Sch 15 para 3(2)(b)); or (3) any study or research organised by or on behalf of the permitted participant (Sch 15 para 3(2)(c)). For this purpose, 'publication' means a publication made available in whatever form and by whatever means, whether or not to the public at large or any section of the public: Sch 15 para 3(5). The Secretary of State may by order made on the recommendation of the Electoral Commission amend Sch 15 para 3(2) or Sch 15 para 3(3) (see the text and notes 28–31 infra): Sch 15 para 3(4). At the date at which this volume states the law, no such order had been made. As to the Secretary of State see para 2 ante; and as to the Electoral Commission see para 31 et seq ante.
26 Ibid Sch 15 para 3(1)(b)(i).
27 Ibid Sch 15 para 3(1)(b)(ii).
28 Ibid Sch 15 para 3(3)(a)(i). See note 25 supra.
29 Ibid Sch 15 para 3(3)(a)(ii). See note 25 supra.
30 Ibid Sch 15 para 3(3)(b). See note 25 supra.
31 Ibid Sch 15 para 3(3). See note 25 supra.

539. Restrictions on permitted participants at a referendum accepting certain donations. For the purposes of controlling donations[1] to permitted participants[2] at a referendum[3], a relevant donation[4] received by a permitted participant must not be accepted[5] if: (1) the person by whom the donation would be made is not, at the time of its receipt by the permitted participant, a permissible donor[6]; or (2) the permitted participant is, whether because the donation is given anonymously or by reason of any deception or concealment or otherwise, unable to ascertain the identity of the person offering the donation[7]. A 'permissible donor' referred to in head (1) above is any of the following: (a) an individual registered in an electoral register[8]; (b) a company registered under the Companies Act 1985 and incorporated within the United Kingdom[9] or another member state which carries on business in the United Kingdom[10]; (c) a registered party[11]; (d) a trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992[12]; (e) a building society[13]; (f) a limited liability partnership registered under the Limited Liability Partnerships Act 2000 which carries on business in the United Kingdom[14]; (g) a friendly society registered under the Friendly Societies Act 1974[15] or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965[16]; and (h) any unincorporated association of two or more persons which does not fall within any of heads (a) to (g) above but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there[17].

Where any person (the 'principal donor') causes an amount (the 'principal donation') to be received by a permitted participant by way of a relevant donation either on behalf

of himself and one or more other persons[18] or on behalf of two or more other persons[19], then for the purposes of the provisions relating to the controls on donations received by permitted participants at a referendum[20], each individual contribution by such person of more than £200[21] is treated as if it were a separate donation received from that person[22].

Where any person (the 'agent') causes an amount to be received by a permitted participant by way of a donation on behalf of another person (the 'donor')[23], and the amount of the donation is more than £200[24], the agent must ensure that, at the time when the donation is received by the permitted participant, the responsible person is given all such details in respect of the donor as are required to be included in donation reports[25].

A person commits an offence if, without reasonable excuse, he fails to comply with the provisions which impose controls on donations made through other persons or through agents[26].

1 For the meaning of 'donation' see para 538 ante.
2 For the meaning of 'permitted participant' see para 521 ante; but see also para 538 note 6 ante.
3 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended). For the meaning of 'referendum' see para 519 ante.
4 For the meaning of 'relevant donation' see para 538 note 12 ante.
5 Political Parties, Referendums and Referendums Act 2000 Sch 15 para 6(1).
6 Ibid Sch 15 para 6(1)(a). The text refers to a permissible donor falling within s 54(2) (as amended) (see heads (a)–(h) in the text). For these purposes, any payment received by a designated organisation by virtue of s 110(2) (see para 523 ante) must be regarded as a donation received by the organisation from a permissible donor falling within s 54(2) (Sch 15 para 6(2)); and any relevant donation received by a permitted participant which is an exempt trust donation must be regarded as a relevant donation received by the permitted participant from a permissible donor (Sch 15 para 6(3)). However, any relevant donation received by a permitted participant from a trustee of any property (in his capacity as such) is regarded as being from a person who is not such a permissible donor if that donation is not: (1) an exempt trust donation; or (2) a relevant donation transmitted by the trustee to the permitted participant on behalf of beneficiaries under the trust who are either persons who, at the time of its receipt by the permitted participant, are such permissible donors or the members of an unincorporated association which at that time is such a permissible donor: Sch 15 para 6(4). In relation to donations received by a permitted participant other than a designated organisation (within the meaning given by s 110(5): see para 523 ante), references to a permissible donor falling within s 54(2) (as amended) do not include a registered party: Sch 15 para 1(6). For the meaning of 'registered party' see para 32 note 3 ante; and for the meaning of 'exempt trust donation' see para 293 note 7 ante.
7 Ibid Sch 15 para 6(1)(b).
8 Ibid s 54(2)(a). For the meaning of 'electoral register' for these purposes see para 293 note 9 ante.
9 For the meaning of 'United Kingdom' see para 13 note 1 ante.
10 Political Parties, Referendums and Referendums Act 2000 s 54(2)(b). As to the registration and incorporation of companies see COMPANIES vol 7(1) (2004 Reissue) para 221 et seq; and as to the control of contributions and other donations made by companies generally to registered parties and other European Union political organisations, and European Union political expenditure incurred by companies, see the Companies Act 1985 Pt XA (ss 347A–347K) (as added); and COMPANIES vol 7(1) (2004 Reissue) para 433 et seq.
11 Political Parties, Referendums and Referendums Act 2000 s 54(2)(c) (amended by the European Parliamentary Referendums (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 12(a)).
12 Political Parties, Referendums and Referendums Act 2000 s 54(2)(d). As to the list referred to in the text see TRADE, INDUSTRY AND INDUSTRIAL RELATIONS vol 47 (2001 Reissue) para 1010. Unless certain conditions are met, the funds of a trade union may not be applied in the furtherance of certain political objects: see the Trade Union and Labour Relations (Consolidation) Act 1992 Pt I Ch VI (ss 71–96) (as amended); and TRADE, INDUSTRY AND INDUSTRIAL RELATIONS vol 47 (2001 Reissue) para 1077 et seq.
13 Political Parties, Referendums and Referendums Act 2000 s 54(2)(e). The text refers to a building society within the meaning of the Building Societies Act 1986 (see BUILDING SOCIETIES vol 4(3) (Reissue) para 451).
14 Political Parties, Referendums and Referendums Act 2000 s 54(2)(f). As to a limited liability partnership registered under the Limited Liability Partnerships Act 2000 see PARTNERSHIP vol 35 (Reissue) para 221 et seq.

15 As to friendly societies registered under the Friendly Societies Act 1974 see FRIENDLY SOCIETIES vol 19(1) (Reissue) para 104 et seq.
16 Political Parties, Referendums and Referendums Act 2000 s 54(2)(g). As to societies registered under the Industrial and Provident Societies Act 1965 see INDUSTRIAL AND PROVIDENT SOCIETIES vol 24 (Reissue) paras 1, 16 et seq.
17 Political Parties, Referendums and Referendums Act 2000 s 54(2)(h).
18 Ibid Sch 15 para 6(5)(a).
19 Ibid Sch 15 para 6(5)(b).
20 Ie for the purposes of ibid Sch 15 (as amended).
21 The Secretary of State may by order vary the sum for the time being specified in ibid Sch 15 (as amended): see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made.
22 Ibid Sch 15 para 6(5). In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the permitted participant, the responsible person is given, except in the case of a donation which the principal donor is treated as making, all such details in respect of the person treated as making the donation as are required by virtue of Sch 15 para 10(1)(c) (see para 542 post) and, in any case, all such details in respect of the donation as are required by virtue of Sch 15 para 10(1)(a) (see para 542 post): Sch 15 para 6(6). For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.
23 Ibid Sch 15 para 6(7)(a).
24 Ibid Sch 15 para 6(7)(b). See note 21 supra.
25 Ibid Sch 15 para 6(7). The text refers to the details in respect of the donor that are required to be reported by virtue of Sch 15 para 10(1)(c) (see para 542 post).
26 See ibid Sch 15 para 6(8); and para 755 post. The text refers to failure to comply with Sch 15 para 6(6), (7) (see the text and notes 22–25 supra).

540. Acceptance or return of donations received by permitted participants at a referendum. The provisions which require a registered party[1] to: (1) take all reasonable steps to identify a donor in order to ascertain whether he is a permissible donor[2]; and (2) where a donor is unidentifiable or impermissible, to return the donation to its source or to send it to the Electoral Commission[3] or subject it to forfeiture on the application of the Commission[4], apply, subject to minor modification, for the purposes of controlling donations[5] to permitted participants[6] at a referendum[7] in relation to a permitted participant and any relevant donation[8] received by a permitted participant as they apply in relation to a registered party and a donation received by a registered party[9].

Accordingly, where a donation is received by a permitted participant[10] and it is not immediately decided that the permitted participant should (for whatever reason) refuse the donation[11], all reasonable steps must be taken forthwith by or on behalf of the permitted participant party to verify (or, so far as any of the following is not apparent, ascertain) the identity of the donor, whether he is a permissible donor, and (if that appears to be the case) all such details in respect of the donor as are required to be included in donation reports[12]. If a permitted participant receives a donation which it is prohibited from accepting[13], or which it is decided that the permitted participant should for any other reason refuse[14], then the donation, or a payment of an equivalent amount, must be sent back to the person who made the donation or any person appearing to be acting on his behalf[15] (unless the permitted participant is unable to ascertain the identity of the person by whom the donation was made[16], in which case the required steps[17] must be taken in relation to the donation)[18], within the period of 30 days beginning with the date when the donation is received by the permitted participant[19]. Unless the donation is so returned (or such steps are taken in relation to the donation) within the period of 30 days so mentioned[20], and unless a record can be produced of the receipt of the donation and of the return of the donation or the equivalent amount (or of the required steps being taken in relation to the donation, as the case may be)[21] then, for these purposes, a donation received by a permitted participant is taken to have been accepted by the permitted participant[22].

In England and Wales[23], a magistrates' court may, on an application made by the Commission, order the forfeiture by the permitted participant of an amount equal to the value of any donation[24] received by a permitted participant which[25] the permitted participant is prohibited from accepting[26] but which has been accepted by the permitted participant[27]. The standard of proof in proceedings on such an application is that applicable to civil proceedings[28]; and such an order may be made whether or not proceedings are brought against any person for an offence connected with the donation[29]. Where such an order (a 'forfeiture order') is made by a magistrates' court[30], the permitted participant may, before the end of the period of 30 days beginning with the date on which any forfeiture order is made, appeal to the Crown Court[31]. Such an appeal is by way of a rehearing; and the court hearing such an appeal may make such order as it considers appropriate[32]. The standard of proof in relation to a rehearing on such an appeal remains that applicable to civil proceedings[33]; and an appropriate order may be made whether or not proceedings are brought against any person for an offence connected with the donation[34]. Any amount forfeited by an order made either on application or on appeal[35] must be paid into the Consolidated Fund[36], although this does not apply: (a) where an appeal is made[37], before the appeal is determined or otherwise disposed of[38]; and (b) in any other case, before the end of the period of 30 days beginning with the date on which any forfeiture order is made[39].

1 For the meaning of 'registered party' see para 32 note 3 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 s 56 (see the text and notes 10–22 infra). Nothing in Pt IV (ss 50–71) (as amended) affects minor parties (as to which see para 260 ante). For the meaning of 'permissible donor' see para 539 ante.

3 Ie ibid s 57 (see note 17 infra). See also note 2 supra. As to the Electoral Commission see para 31 et seq ante.

4 Ie ibid s 58 (as amended) (see the text and notes 23–29 infra). The registered party may appeal against a forfeiture order (see s 59 (as amended); and the text and notes 30–32 infra); and rules of court under s 60 (as amended) (see note 27 infra; and the text and notes 35–39 infra) may provide for the procedure on application or appeal under ss 58, 59 (as amended). See also note 2 supra.

5 For the meaning of 'donation' see para 538 ante.

6 For the meaning of 'permitted participant' see para 521 ante; but see also para 538 note 6 ante.

7 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended). For the meaning of 'referendum' see para 519 ante.

8 For the meaning of 'relevant donation' see para 538 note 12 ante.

9 Political Parties, Referendums and Referendums Act 2000 Sch 15 para 7(1). Accordingly, in the application of ss 56–60 (as amended) for these purposes: (1) s 56(1) has effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS), if the donation were a recordable donation within the meaning of Sch 6 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), were construed as a reference to the particulars which are required to be included in a return by virtue of Sch 15 para 10(1)(c) (see para 542 post); and (2) the provisions of s 56(3), (4) have effect as if the reference to the treasurer of a registered party were construed as a reference to the responsible person in relation to the permitted participant: Sch 15 para 7(2). For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.

10 Ibid s 56(1)(a) (as applied: see the text and notes 1–9 supra).

11 Ibid s 56(1)(b) (as applied: see the text and notes 1–9 supra). Where a donation is received by a permitted participant in the form of an amount paid into any account held by the permitted participant with a financial institution, it is taken for these purposes to have been received by the permitted participant at the time when the permitted participant is notified in the usual way of the payment into the account: s 56(6) (as so applied).

12 Ibid s 56(1) (as applied and modified: see the text and notes 1–9 supra). The text refers to the details in respect of the donor that are required to be reported by virtue of Sch 15 para 10(1)(c) (see para 542 post).

13 Ie by virtue of ibid s 54(1), which is in similar terms to Sch 15 para 6(1) (see para 539 ante).

14 Ibid s 56(2) (as applied: see the text and notes 1–9 supra).

15 Ibid s 56(2)(a) (as applied: see the text and notes 1–9 supra). Where this provision applies in relation to a donation and the donation is not dealt with accordingly, the responsible person is guilty of an offence: see s 56(3) (as applied and modified); and para 755 post.

16 Ie unless the donation falls within ibid s 54(1)(b), which is in similar terms to Sch 15 para 6(1)(b) (see para 539 ante).

17 For these purposes, the required steps are as follows: (1) if the donation was transmitted by a person other than the donor, and the identity of that person is apparent, to return the donation to that person (ibid s 57(1)(a) (as applied: see the text and notes 1–9 supra)); (2) if head (1) supra does not apply but it is apparent that the donor has, in connection with the donation, used any facility provided by an identifiable financial institution, to return the donation to that institution (s 57(1)(b) (as so applied)); and (3) in any other case, to send the donation to the Electoral Commission (s 57(1)(c) (as so applied); s 160(1)). Any reference to returning or sending a donation to any person or body includes a reference to sending a payment of an equivalent amount to that person or body (s 57(2) (as so applied)); and any amount sent to the Electoral Commission in pursuance of head (3) supra must be paid by it into the Consolidated Fund (s 57(3) (as so applied); s 160(1)). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 711 et seq; PARLIAMENT vol 34 (Reissue) paras 952–955.

18 Ibid s 56(2)(b) (as applied: see the text and notes 1–9 supra). Where this provision applies in relation to a donation and the donation is not dealt with accordingly, the responsible person is guilty of an offence: see s 56(4) (as applied and modified); and para 755 post.

19 Ibid s 56(2) (as applied: see the text and notes 1–9 supra).

20 Ibid s 56(5)(a) (as applied: see the text and notes 1–9 supra).

21 Ibid s 56(5)(b) (as applied: see the text and notes 1–9 supra).

22 Ibid s 56(5) (as applied: see the text and notes 1–9 supra).

23 For the meanings of 'England' and 'Wales' see para 13 note 1 ante.

24 Political Parties, Elections and Referendums Act 2000 s 58(2), (5)(a) (as applied: see the text and notes 1–9 supra).

25 Ie by virtue of ibid s 54(1)(a), (b), which is in similar terms to Sch 15 para 6(1)(a), (b) (see para 539 ante).

26 Ibid s 58(1)(a) (as applied: see the text and notes 1–9 supra).

27 Ibid s 58(1)(b) (as applied: see the text and notes 1–9 supra).

In relation to courts in any part of the United Kingdom, and without prejudice to the generality of any existing power to make rules, provision may be made by rules of court with respect to applications or appeals to any court under s 58 (as applied) or s 59 (as applied) (see the text and notes 30–32 infra), for the giving of notice of such applications or appeals to persons affected, and generally with respect to the procedure under those statutory provisions before any court: s 60(1), (2) (as so applied). In the case of a permitted participant which is not a body corporate: (1) proceedings under s 58 (as applied) or s 59 (as applied) must be brought against or by the party in its own name (and not in that of any of its members) (s 60(5)(a) (as so applied)); (2) for the purposes of any such proceedings any rules of court relating to the service of documents apply as if the permitted participant were a body corporate (s 60(5)(b) (as so applied)); and (3) any amount forfeited by an order under s 58 (as applied) or s 59 (as applied) must be paid out of the funds of the permitted participant (s 60(5)(c) (as so applied)). In Acts passed after 1889, in relation to any court, 'rules of court' means rules made by the authority having power to make rules or orders regulating the practice of that court: see the Interpretation Act 1978 Sch 1, Sch 2 para 4(1)(a); and STATUTES vol 44(1) (Reissue) para 1386.

28 Political Parties, Elections and Referendums Act 2000 s 58(3) (as applied: see the text and notes 1–9 supra). See note 27 supra.

29 Ibid s 58(4) (as applied: see the text and notes 1–9 supra). See note 27 supra.

30 Ibid s 59(1) (as applied: see the text and notes 1–9 supra). See note 27 supra.

31 Ibid s 59(2) (as applied: see the text and notes 1–9 supra). See note 27 supra.

32 Ibid s 59(3) (as applied: see the text and notes 1–9 supra). See note 27 supra.

33 Ibid ss 58(3), 59(4) (as applied: see the text and notes 1–9 supra). See note 27 supra.

34 Ibid ss 58(4), 59(4) (as applied: see the text and notes 1–9 supra). See note 27 supra.

35 Ie an order under ibid s 58 (as applied) (see the text and notes 23–29 supra) or s 59 (as applied) (see the text and notes 30–32 supra).

36 Ibid s 60(3) (as applied: see the text and notes 1–9 supra).

37 Ie under ibid s 59(2) (as applied) (see the text and note 31 supra).

38 Ibid s 60(4)(a) (as applied: see the text and notes 1–9 supra).

39 Ibid ss 59(2), 60(4)(b) (as applied: see the text and notes 1–9 supra).

541. Evasion of restrictions on donations received by permitted participants at a referendum. The provisions which create offences concerned with the evasion of restrictions on donations to a registered party[1] apply for the purposes of controlling relevant donations[2] received by permitted participants[3] at a referendum[4], subject to minor modification[5].

1 Ie the Political Parties, Elections and Referendums Act 2000 s 61 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS). For the meaning of 'registered party' see para 32 note 3 ante.
2 For the meaning of 'relevant donation' see para 538 note 12 ante.
3 For the meaning of 'permitted participant' see para 521 ante; but see also para 538 note 6 ante.
4 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended). For the meaning of 'referendum' see para 519 ante.
5 See ibid Sch 15 para 8; and para 755 post.

542. Statement of relevant donations received by permitted participants at a referendum. For the purposes of controlling donations[1] to permitted participants[2] at a referendum[3], the responsible person[4] in relation to a permitted participant must include, in any return required to be prepared in respect of referendum expenses[4], a statement of relevant donations[5] which complies with the requirement to report any donations received from persons who are permissible donors as well as those received from persons who are not permissible donors[7].

Accordingly, in relation to each relevant donation accepted by the permitted participant where the value of the donation:

(1) is more than £5,000[8]; or
(2) when added to the value of any other donation or donations made by the same donor (whether or not falling within head (1) above), is more than that amount[9],

the statement must record[10]: (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value[11]; (b) the date when the donation was accepted by the permitted participant[12]; (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports[13]; (d) the total value of any relevant donations, other than those falling within head (1) or head (2) above, which are accepted by the permitted participant[14]; and (e) such other information as may be required by regulations made by the Electoral Commission[15].

Where a relevant donation has been received from a person who is not a permissible donor (an 'impermissible donor')[16], the statement must record: (i) the name and address of the donor[17]; (ii) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value[18]; (iii) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with the provisions which regulate the handling of relevant donations made by impermissible donors[19]; (iv) such other information as is required by regulations made by the Commission[20]. Where a relevant donation has been received from a person whose identity cannot be ascertained[21], the statement must record: (A) details of the manner in which the donation was made[22]; (B) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value[23]; (C) the date when the donation was received, and the date when and the manner in which it was dealt with in accordance with the provisions which regulate the handling of relevant donations made by persons whose identity cannot be ascertained[24]; and (D) such other information as is required by regulations made by the Commission[25].

1 For the meaning of 'donation' see para 538 ante.
2 For the meaning of 'permitted participant' see para 521 ante; but see also para 538 note 6 ante.

3 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 (as amended). For the meaning of 'referendum' see para 519 ante.
4 For the meaning of 'responsible person' in relation to a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to an individual or body which is not a registered party see para 521 note 32 ante.
4 Ie any return required to be prepared under the Political Parties, Elections and Referendums Act 2000 s 120 (see para 534 ante).
4 For the meaning of 'relevant donation' see para 538 note 12 ante.
7 Political Parties, Elections and Referendums Act 2000 Sch 15 para 9. The text refers to the requirement for a statement of relevant donations to comply with Sch 15 paras 10–11 (as amended) (see the text and notes 8–25 infra). For the meaning of 'permissible donor' see para 539 ante.
8 Ibid Sch 15 para 10(1), (2)(a). The Secretary of State may by order vary the sum for the time being specified in Sch 15 (as amended): see s 155; and para 304 note 36 ante. At the date at which this volume states the law, no such order had been made. As to the Secretary of State see para 2 ante.
9 Ibid Sch 15 para 10(1), (2)(b).
10 Ibid Sch 15 para 10(1).
11 Ibid Sch 15 para 10(1)(a). The value of the donation is determined in accordance with Sch 15 para 5 (see para 538 ante).
12 Ibid Sch 15 para 10(1)(b). As to the acceptance of donations made to a permitted participant see para 540 ante.
13 Ibid Sch 15 para 10(1)(c). The text refers to information about the donor which is required to be recorded in donation reports by virtue of ss 62, 63, Sch 6 para 2 (as amended) (identity of donors (quarterly reports): see CONSTITUTIONAL LAW AND HUMAN RIGHTS). In the case of a donation made by an individual who has an anonymous entry in an electoral register (within the meaning of the Representation of the People Act 1983: see para 174 ante), if the statement of relevant donations states that the permitted participant has seen evidence, of such description as is prescribed by the Secretary of State in regulations, that the individual donor has such an anonymous entry, the statement must be accompanied by a copy of the evidence: Political Parties, Referendums and Referendums Act 2000 Sch 15 para 10(4) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 24, 30). The evidence prescribed for the purposes of the Political Parties, Elections and Referendums Act 2000 Sch 15 para 10(4) (as added) is a certificate of anonymous registration issued pursuant to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 45E (as added) (see para 182 ante): see the Political Donations and Regulated Transactions (Anonymous Electors) (England and Wales) Regulations 2006, SI 2006/2974, reg 3. As to the Secretary of State see para 2 ante; and as to the making of regulations under the Political Parties, Elections and Referendums Act 2000 generally see para 31 note 2 ante.
14 Ibid Sch 15 para 10(3)(a).
15 Ibid s 160(1), Sch 15 para 10(3)(b). Regulations made by the Electoral Commission are not statutory instruments and are not recorded in this work: see further para 42 ante. As to the Electoral Commission see para 31 et seq ante.
16 Ibid Sch 15 para 11(1), (2). The text refers to the circumstance where Sch 15 para 6(1)(a) applies (see para 539 ante).
17 Ibid Sch 15 para 11(2)(a).
18 Ibid Sch 15 para 11(2)(b). As to the ascertainment of value for these purposes see note 11 supra.
19 Ibid Sch 15 para 11(2)(c), (3). The text refers to dealing with the donation in accordance with s 56(2)(a) (as applied): see para 540 ante.
20 Ibid s 160(1), Sch 15 para 11(2)(d). As to the regulations referred to in the text see note 15 supra.
21 Ibid Sch 15 para 11(3). The text refers to the circumstance where Sch 15 para 6(1)(b) applies (see para 539 ante).
22 Ibid Sch 15 para 11(3)(a).
23 Ibid Sch 15 para 11(3)(b). As to the ascertainment of value for these purposes see note 11 supra.
24 Ibid Sch 15 para 11(3)(c). The text refers to dealing with the donation in accordance with s 56(2)(b) (as applied): see para 540 ante.
25 Ibid Sch 15 para 11(3)(d). As to the regulations referred to in the text see note 15 supra.

(C) Publicity

543. Restriction on publication etc of promotional material by central and local government etc. No material which: (1) provides general information about a referendum[1] to which the general framework provisions[2] apply; (2) deals with any of the issues raised by any question[3] on which such a referendum is being held[4]; (3) puts any

arguments for or against any particular answer[5] to any such question[6]; or (4) is designed to encourage voting at such a referendum[7], is to be published[8] during the period of 28 days ending with the date of the poll (the 'relevant period')[9] by or on behalf of any Minister of the Crown, government department or local authority[10] or any other person or body whose expenses are defrayed wholly or mainly out of public funds[11] or by any local authority[12]. However, this restriction on publication does not apply to: (a) material made available to persons in response to specific requests for information or to persons specifically seeking access to it[13]; (b) anything done by or on behalf of the Electoral Commission[14] or a designated person or body[15] to whom assistance is available[16]; (c) the publication of information relating to the holding of the poll[17]; or (d) the issue of press notices[18].

Material which relates to a referendum which is published during a referendum period must include certain information to help identify who is behind referendum publications (and therefore who has incurred referendum expenses)[19].

1 For the meaning of 'referendum' see para 519 ante.
2 Political Parties, Elections and Referendums Act 2000 s 125(1)(a). The text refers to the provisions of Pt VII (ss 101–129) (as amended).
3 As to the meaning of 'question' see para 519 note 8 ante.
4 Political Parties, Elections and Referendums Act 2000 s 125(1)(b).
5 As to the meaning of 'answer' see para 519 note 8 ante.
6 Political Parties, Elections and Referendums Act 2000 s 125(1)(c).
7 Ibid s 125(1)(d).
8 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means (and 'publication' is to be construed accordingly): ibid s 125(4)(a).
9 Ibid s 125(2), (4)(b).
10 Ibid s 125(2)(a).
11 As to references to payments out of public funds see para 304 note 21 ante.
12 Political Parties, Elections and Referendums Act 2000 s 125(2)(b). This provision is not to be taken as applying to the British Broadcasting Corporation ('the BBC') or Sianel Pedwar Cymru: s 125(3). As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 306 et seq; and as to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 396.
13 Ibid s 125(3)(a).
14 As to the Electoral Commission see para 31 et seq ante.
15 For the meaning of 'body' see para 53 note 2 ante.
16 Political Parties, Elections and Referendums Act 2000 ss 125(3)(b), 160(1). The text refers to a person or body designated under s 108 (see para 522 ante).
17 Ibid s 125(3)(c).
18 Ibid s 125(3)(d).
19 See ibid s 126 (as amended); and para 753 post.

544. Referendum campaign broadcasts. A broadcaster[1] must not include in its broadcasting services any referendum campaign broadcast made on behalf of any person or body[2] other than one designated to receive assistance[3] in respect of the referendum[4] in question[5]. For these purposes, 'referendum campaign broadcast' means any broadcast whose purpose (or main purpose) is or may reasonably be assumed to be to further any campaign[6] conducted with a view to promoting or procuring a particular outcome[7] in relation to any question[8] asked in a referendum to which the general framework provisions[9] apply or otherwise to promote or procure any such outcome[10].

1 For the meaning of 'broadcaster' see para 304 note 43 ante.
2 For the meaning of 'body' see para 53 note 2 ante.
3 Ie a person or body designated under the Political Parties, Elections and Referendums Act 2000 s 108 (see para 522 ante).
4 For the meaning of 'referendum' see para 519 ante.
5 Political Parties, Elections and Referendums Act 2000 s 127(1). Attempts to provide referendum broadcasts in the 1979 devolution referendums (the legal basis for which is cited in para 4 ante) foundered

following the decision in the case of *Wilson v Independent Broadcasting Authority* 1979 SC 351, 1979 SLT 279, Ct of Sess (regulator's decision to allocate a broadcast to each of the four Scottish parliamentary political parties, which divided three to one in favour of devolution, had acted in breach of its statutory duty to ensure that programmes broadcast on the subject of the referendum maintained a proper balance). As to the broadcaster's general duty of impartiality see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 508.

6 For the meaning of 'referendum campaign' see para 527 note 4 ante.

7 For the meaning of 'outcome' see para 521 note 19 ante.

8 As to the meaning of 'question' see para 519 note 8 ante.

9 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended).

10 Ibid s 127(2).

E. THE BALLOT

(A) Counting Officers

545. Chief counting officers and counting officers for referendums. In relation to any referendum[1] to which the general framework provisions apply[2], there must be a chief counting officer for the referendum, who is either the chairman of the Electoral Commission[3] or, if the chairman of the Commission appoints some other person to act as chief counting officer for the referendum, the person so appointed[4]. The chief counting officer for the referendum must appoint a counting officer for each relevant area in Great Britain[5]; and the local authority[6] in the case of each such area must place the services of its officers at the disposal of the counting officer for the area for the purpose of assisting him in the discharge of his functions[7].

Each counting officer must certify the number of ballot papers counted by him[8] and the number of votes cast in favour of each answer[9] to a question[10] asked in the referendum[11], as respects the votes cast in the area for which he is appointed[12]. The chief counting officer must certify the total number of ballot papers counted[13] and the total number of votes cast in favour of each answer to a question asked in the referendum[14], in the whole of the referendum area[15].

1 For the meaning of 'referendum' see para 519 ante.

2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended).

3 Ibid ss 128(1), (2)(a), 160(1). As to the Electoral Commission see para 31 et seq ante; and as to the chairman of the Electoral Commission see para 32 ante.

4 Ibid s 128(1), (2)(b).

5 Ibid s 128(1), (3). For these purposes, 'relevant area in Great Britain' means any of the following: (1) a district in England or a London borough (s 128(9)(a)(i)); (2) the City of London (including the Inner and Middle Temples), the Isle of Wight or the Isles of Scilly (s 128(9)(a)(ii)); or (3) a county or county borough in Wales (s 128(9)(a)(iv)), where it is comprised in the referendum area (s 128(9)(a)). 'Referendum area' means the parts or part of the United Kingdom, or (as the case may be) the region in England, throughout which the referendum is held as mentioned in s 101(1) (see para 519 ante): s 128(9)(c). For the meanings of 'Great Britain', 'United Kingdom', 'England' and 'Wales' see para 13 note 1 ante. As to the Isles of Scilly and their council see para 10 ante; and LOCAL GOVERNMENT vol 29(1) (Reissue) para 40. As to districts in England and their councils, and county or county boroughs in Wales and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq; and as to the London boroughs and the City of London (including the Temples) see LONDON GOVERNMENT vol 29(2) (Reissue) para 30 et seq.

6 For these purposes, 'local authority' means, in the case of a district in England or a London borough or a county or county borough in Wales, the council for that area (ibid s 128(9)(b)(i)); and, in the case of the City of London (including the Inner and Middle Temples), the Isle of Wight or the Isles of Scilly, the Common Council of the City of London, the Council of the Isle of Wight or the Council of the Isles of Scilly, as the case may be (s 128(9)(b)(ii)). As to the Court of Common Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq.

7 Ibid s 128(1), (4).

8 Ibid s 128(1), (5)(a). Where two or more forms of ballot paper are used in the referendum, a separate number must be certified under s 128(5)(a) in relation to each form of ballot paper so used: s 128(7).

9 As to the meaning of 'answer' see para 519 note 8 ante.

10 As to the meaning of 'question' see para 519 note 8 ante.
11 Political Parties, Elections and Referendums Act 2000 s 128(1), (5)(b).
12 Ibid s 128(1), (5).
13 Ibid s 128(1), (6)(a). Where two or more forms of ballot paper are used in the referendum, a separate number must be certified under s 128(6)(a) in relation to each form of ballot paper so used: s 128(7).
14 Ibid s 128(1), (6)(b).
15 Ibid s 128(1), (6).

(B) Power to make Rules for the Conduct of Referendums

546. Orders regulating conduct of referendums. The Secretary of State[1] may by order[2] make such provision as he considers expedient for or in connection with regulating the conduct of referendums[3] to which the general framework provisions apply[4]. However, such an order does not apply in relation to any referendum in relation to which specific provision is made by any other enactment for or in connection with regulating any matters relating to the conduct of the referendum, except to such extent (if any) as may be provided by that enactment[5].

Before making such an order, the Secretary of State must consult the Electoral Commission[6].

1 As to the Secretary of State see para 2 ante.
2 Such an order may, in particular, make provision for the creation of offences and apply (with or without modification) any provision of any enactment; and different provision may be so made in relation to different parts of the United Kingdom: Political Parties, Elections and Referendums Act 2000 s 129(2). See note 4 infra. For the meaning of 'United Kingdom' see para 13 note 1 ante. As to the meaning of 'modification' see para 39 note 9 ante; and as to the meaning of 'enactment' see para 48 note 2 ante.
3 For the meaning of 'referendum' see para 519 ante.
4 Political Parties, Elections and Referendums Act 2000 s 129(1). The text refers to the provisions of Pt VII (ss 101–129) (as amended). See the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962; and para 547 et seq post.
5 Political Parties, Elections and Referendums Act 2000 s 129(3).
6 Ibid ss 129(4), 160(1). As to the Electoral Commission see para 31 et seq ante.

(ii) Referendums on Regional Assemblies

547. Framework for the holding of referendums on regional assemblies. Within the general framework provisions which apply to certain referendums held in England[1], the Regional Assemblies (Preparations) Act 2003 provides for the holding of referendums about the establishment of elected assemblies for certain regions of England (except London) ('assembly referendums')[2]. The Act also requires the Secretary of State to hold referendums ('local government referendums') in areas with two tiers of local authorities regarding the government's proposed options for single-tier local government in those areas[3]. Provision is made for the polls at such referendums to be combined[4].

The Act also makes provision for the Electoral Commission[5] to give advice in connection with the establishment of assemblies[6]; for questioning the number of ballot papers or votes cast in a referendum[7]; for reviewing the structure of local government in regions where the holding of a referendum is under consideration[8]; and for the payment of grant in connection with the activities of regional chambers[9].

1 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended) (see para 519 et seq ante).
2 See the Regional Assemblies (Preparations) Act 2003 ss 1, 3–6; and para 548 post.
3 See ibid ss 2–6; and para 549 post.
4 See ibid s 7; and para 550 post.
5 As to the Electoral Commission see para 31 et seq ante.
6 See the Regional Assemblies (Preparations) Act 2003 ss 8–10, Pt 3 (ss 21–24); and para 552 post.
7 See ibid s 11; and para 551 post.

8 See ibid Pt 2 (ss 13–20); and para 553 post.

9 See ibid s 25.

548. Regional assembly referendums. The Secretary of State[1] may by order cause a referendum[2] to be held in a region specified in the order[3] about the establishment of an elected assembly for that region[4]. The date of the referendum must be specified in the order[5]; and, for the purposes of the general framework provisions which apply to certain referendums[6], the Secretary of State must by order determine the referendum period for such a referendum[7]. However, the Secretary of State must not make an order to hold a referendum unless each of the following two conditions is satisfied in relation to the region[8], namely: (1) that the Secretary of State has considered the level of interest in the region in the holding of such a referendum[9]; and (2) that the Boundary Committee for England[10] has made recommendations in relation to the region[11]. If a referendum is held in a region in pursuance of such an order[12] and a majority of the votes cast in the referendum is against there being an elected assembly for the region[13], no further such order may be made in relation to the region until the end of the period of seven years starting with the day on which the referendum was held[14].

1 As to the Secretary of State see para 2 ante.

2 For the meaning of 'referendum' see para 519 ante; definition applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

3 The Secretary of State may make the order at any time during the period of two years starting with the date on which he gives a direction under ibid s 13 (see para 553 post) in relation to the region so long as before he makes the order he has no cause to think that the level of interest has changed materially: s 1(6). A change in the level of interest is material if the changed level is one at which the Secretary of State (disregarding factors relating to any other region) thinks he would not have given a direction under s 13: s 1(7). If the Secretary of State has cause to think that the level of interest has changed materially as mentioned in s 1(6), that provision does not apply but he must not make an order under s 1(1) (see the text and note 4 infra) unless, for the purposes of s 1(4) (see the text and note 9 infra), he considers views expressed and information and evidence provided to him and such published material as he thinks appropriate: s 1(8).

4 Ibid s 1(1). As to the questions to be asked at such a referendum see s 3; and as to the entitlement to vote at such a referendum see s 4(1). As to the power of a Minister of the Crown to make provision, under the Political Parties, Elections and Referendums Act 2000 s 129 (see para 546 ante), regulating the conduct of referendums for or in connection with an assembly referendum see the Regional Assemblies (Preparations) Act 2003 s 12; and as to rules so made see the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962, art 3, Sch 1 Pt I (rr 1–19) (general provisions; ballot packs), Sch 1 Pt II (rr 20–35) (return of ballot papers), Sch 1 Pt III (rr 36–54) (receipt by the counting officer of ballot papers), Sch 1 Pt IV (rr 55–59) (the count), Sch 1 Pt V (rr 60–61) (final proceedings), Sch 1 Pt VI (rr 62–65) (disposal of documents).

5 Regional Assemblies (Preparations) Act 2003 s 1(2). The Secretary of State may by order vary or revoke an order under s 1 if he thinks it is not appropriate for a referendum to be held on the date specified in the order: s 1(9).

6 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended), which (inter alia) imposes limits on expenditure and controls on the publication of referendum-related material during the referendum period (see para 519 et seq ante).

7 Regional Assemblies (Preparations) Act 2003 s 5. See the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963. As to the referendum period see para 519 ante; provisions applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

8 Ibid s 1(3).

9 Ibid s 1(4).

10 As to the Boundary Committee for England see para 60 et seq ante.

11 Regional Assemblies (Preparations) Act 2003 s 1(5). As to the review of the structure of local government in regions where the holding of a referendum is under consideration see para 553 post.

12 Ibid s 6(1)(a).

13 Ibid s 6(1)(b). Any question as to the number of votes cast in a referendum in favour of an answer to a question is determined by the certificate of the chief counting officer given under the Political Parties, Elections and Referendums Act 2000 s 128 (functions of chief counting officer: see para 545 ante): Regional Assemblies (Preparations) Act 2003 s 6(3).

14 Ibid s 6(2).

549. Local government referendums. If the Secretary of State[1] makes an order[2] to cause a referendum[3] to be held in a region about the establishment of an elected assembly for that region[4], he must by order cause a referendum to be held in each county area[5] in the region about the government's proposals for the structure of local government in that area[6].

The government's proposals for the structure of local government: (1) are such of the recommendations of the Boundary Committee for England made in pursuance of a direction[7] as the Secretary of State thinks appropriate subject to such modifications (if any) as he proposes to make[8]; and (2) must include at least two options for structural change[9] in relation to each county area in the region[10].

The date of a referendum held in pursuance of such an order must be specified in the order[11] and must be the same date as the date specified in the order to cause a referendum to be held in a region about the establishment of an elected assembly for that region[12]. For the purposes of the general framework provisions which apply to certain referendums[13], the Secretary of State must by order also determine the referendum period for such a referendum[14].

If in any proceedings any certificate given by a person appointed for the purpose as to the number of votes cast in favour of any option in a referendum held in a county area in pursuance of an order causing such a referendum to be held is declared or held to be invalid[15], the Secretary of State may by order cause a further referendum to be held in that county area[16].

1 As to the Secretary of State see para 2 ante.

2 Ie under the Regional Assemblies (Preparations) Act 2003 s 1 (see para 548 ante).

3 For the meaning of 'referendum' see para 519 ante; definition applied by virtue of ibid s 12(5).

4 Ibid s 2(1).

5 A county area is an area in the region in relation to which both a county council and one or more district councils have functions (ibid s 2(3)); but if the government's proposals for a county area include an option providing for a local authority whose area includes any part of the area of more than one county area, the county area for these purposes is the combined area of each of those county areas (s 2(4)).

6 Ibid s 2(2). As to the questions to be asked at such a referendum see s 3; and as to the entitlement to vote at such a referendum see s 4(2). As to the power of a Minister of the Crown to make provision, under the Political Parties, Elections and Referendums Act 2000 s 129 (see para 546 ante), regulating the conduct of referendums for or in connection with an assembly referendum see the Regional Assemblies (Preparations) Act 2003 s 12; and as to rules so made see the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962, art 3, Sch 1 Pt I (rr 1–19) (general provisions; ballot packs), Sch 1 Pt II (rr 20–35) (return of ballot papers), Sch 1 Pt III (rr 36–54) (receipt by the counting officer of ballot papers), Sch 1 Pt IV (rr 55–59) (the count), Sch 1 Pt V (rr 60–61) (final proceedings), Sch 1 Pt VI (rr 62–65) (disposal of documents).

An order under the Regional Assemblies (Preparations) Act 2003 s 2(2) must not be made before the end of the period of six weeks starting with the day on which the Secretary of State receives the recommendations of the Boundary Committee for England in pursuance of a direction under s 13(1) or s 16(4) (see para 553 post): s 2(7). As to the Boundary Committee for England see para 60 et seq ante. The Secretary of State by order may vary an order under s 2(2) and he must revoke such an order if he revokes the order under s 1 (see para 548 ante): s 2(8). A Minister of the Crown may by order make such provision as he thinks appropriate in connection with a referendum held in pursuance of an order under s 2(2) (s 2(9)); and such an order may make provision for the creation of offences, apply or incorporate with or without modifications or exceptions any provision of any enactment, whenever passed or made and including the Regional Assemblies (Preparations) Act 2003, relating to elections or referendums, and modify any provision of the Political Parties, Elections and Referendums Act 2000 Pt VII Ch II (ss 111–124) (as amended) (financial controls: see para 527 et seq ante) as it applies to a referendum held

in pursuance of an order under the Regional Assemblies (Preparations) Act 2003 s 1 (s 2(10)). As to orders so made see the Regional Assembly and Local Government Referendums (Expenses Limits for Permitted Participants) Order 2004, SI 2004/1961; the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962; and the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963.

7 Ie under the Regional Assemblies (Preparations) Act 2003 s 13(1) or s 16(4) (see para 553 post).

8 Ibid s 2(5)(a). The text refers to proposals for modifications made in pursuance of s 17(3) (see para 553 post).

9 Ie within the meaning of the Local Government Act 1992 Pt II (ss 12–27) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 63).

10 Regional Assemblies (Preparations) Act 2003 s 2(5)(b).

11 Ibid s 2(6)(a).

12 Ibid s 2(6)(b). The text refers to the date specified in the order under s 1 (see para 548 ante).

13 Ie for the purposes of the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended), which (inter alia) imposes limits on expenditure and controls on the publication of referendum-related material during the referendum period (see para 519 et seq ante).

14 Regional Assemblies (Preparations) Act 2003 s 5. See the Regional Assembly and Local Government Referendums (Date of Referendums, Referendum Question and Explanatory Material) (North East Region) Order 2004, SI 2004/1963. As to the referendum period see para 519 ante; provisions applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

15 Ibid s 6(4).

16 Ibid s 6(5). As to the holding of a further referendum as mentioned in the text see s 6(5)(a)–(c), (6)–(11).

550. Combination of polls at referendums on regional assemblies. A Minister of the Crown may by order make provision for the combination of polls[1] at a referendum[2] held in pursuance of an order regarding the establishment of an elected assembly for a region[3] or in pursuance of an order regarding the government's proposals for the structure of local government in each county area[4] in the region[5]. The polls may be combined one with another[6] or with polls at a referendum held under the Local Government Act 2000[7] on proposals for the operation of executive arrangements involving certain forms of executive[8] or with polls at any election[9].

1 Such an order may make provision in connection with the combination of polls, including the creation of offences, and may apply or incorporate with or without modifications or exceptions any provision of any enactment (whenever passed or made) relating to elections or referendums: Regional Assemblies (Preparations) Act 2003 s 7(2). As to the meaning of 'modification' see para 39 note 9 ante; and as to the meaning of 'enactment' see para 48 note 2 ante.

2 For the meaning of 'referendum' see para 519 ante; definition applied by virtue of ibid s 12(5).

3 Ie a referendum held under ibid s 1 (see para 548 ante).

4 As to county areas for these purposes see para 549 note 5 ante.

5 Regional Assemblies (Preparations) Act 2003 s 7(1). The text refers to a referendum held under s 2(2) (see para 549 ante).

6 Ibid s 7(1). See the Regional Assembly and Local Government Referendums Order 2004, SI 2004/1962.

7 Ie under the Local Government Act 2000 s 27 or by virtue of regulations or an order under Pt II (ss 10–48) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222). As to the conduct of such a referendum see para 560 et seq post.

8 Regional Assemblies (Preparations) Act 2003 s 7(1)(a).

9 Ibis s 7(1)(b).

551. Legal challenge to referendum held on regional assemblies. No court may entertain any proceedings for questioning: (1) the number of ballot papers or votes cast in an assembly referendum held in pursuance of an order regarding the establishment of an elected assembly for a region[1], as certified by the chief counting officer for the referendum or by a counting officer[2]; or (2) the number of ballot papers or votes cast in a local government referendum held in each county area[3] in a region in pursuance of an order[4], as certified by a person appointed for the purpose[5], unless the

proceedings are brought by a claim for judicial review[6]. The court must not give permission for the claim unless the claim form is filed before the end of the period of six weeks starting with the certificate date[7].

1 Ie a referendum held under the Regional Assemblies (Preparations) Act 2003 s 1 (see para 548 ante).
2 Ibid s 11(1)(a). As to the appointment of the chief counting officer and other counting officers for the purposes of referendums to which the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended) applies see para 545 ante.
3 As to county areas for these purposes see para 549 note 5 ante.
4 Ie an order under the Regional Assemblies (Preparations) Act 2003 s 2(2) (see para 549 ante).
5 Ibid s 11(1)(b). The text refers to a person appointed for the purpose in pursuance of an order under s 2(9) (see para 549 ante).
6 Ibid s 11(1), (2).
7 Ibid s 11(3). For these purposes, the certificate date is: (1) the date on which a certificate as to the matters mentioned in head (1) or head (2) in the text is given by the chief counting officer, counting officer or other person mentioned in head (2) in the text (s 11(4)(a)); or (2) if there is more than one such certificate in a referendum, the date on which the last such certificate is given (s 11(4)(b)).

552. Role of the Electoral Commission at referendums on regional assemblies and structure of local government. The Electoral Commission[1] may do anything it thinks necessary or expedient for the purpose of encouraging voting at referendums[2] to be held in pursuance of an order made in respect of an assembly or local government referendum[3].

If the Secretary of State[4] makes an order[5] to cause a referendum to be held in a region about the establishment of an elected assembly for the region[6] and, before the appropriate day[7], the Commission has not designated an organisation in relation to each possible outcome of the referendum[8], the Commission may take such steps as it thinks appropriate to provide for persons entitled to vote in the referendum[9] such information as the Commission thinks is likely to promote awareness among those persons about the arguments for and against each answer[10] to the referendum question[11]. If the Secretary of State makes an order[12] to cause a referendum to be held about the government's proposals for the structure of local government[13], the Commission may take such steps as it thinks appropriate to provide for persons entitled to vote in the referendum such information as the Commission thinks is likely to promote awareness among those persons about the arguments relating to the options in those proposals[14]. Information provided in pursuance of these provisions must be provided by the means the Commission thinks is most likely to secure (in the most cost effective way) that the information comes to the notice of all persons entitled to vote in the referendum[15].

A Minister of the Crown (with the consent of the Treasury[16]) may by order make provision for the payment by the Commission of: (1) the charges in respect of services properly rendered or expenses properly incurred by a counting officer[17] in connection with a referendum held in pursuance of an order[18]; and (2) the sum equal to any increase in the superannuation contributions required to be paid by a local authority in respect of any person in consequence of a fee paid as part of a counting officer's charges under head (1) above[19]. Such an order may include provision as to: (a) the services and expenses or descriptions of services and expenses in respect of which payment may be made[20]; (b) the maximum amount to be paid or reimbursed in respect of such services and expenses or descriptions of services and expenses[21]; (c) payments in advance[22]; (d) accounts to be submitted[23].

Provision is made also for the Commission to give advice in pursuance of a direction issued by the Secretary of State in relation to a region in which a referendum has been held in pursuance of an order regarding the establishment of an elected assembly for the region[24] and where the Secretary of State proposes that an elected assembly is established for the region[25].

1 As to the Electoral Commission see para 31 et seq ante.
2 For the meaning of 'referendum' see para 519 ante; definition applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).
3 Ibid s 8. The text refers to referendums to be held in pursuance of an order under Pt 1 (ss 1–12) (see para 547 et seq ante).
4 As to the Secretary of State see para 2 ante.
5 Ie under the Regional Assemblies (Preparations) Act 2003 s 1 (see para 548 ante).
6 Ibid s 9(1)(a).
7 The appropriate day is: (1) the forty-third day of the referendum period if one or more applications under the Political Parties, Elections and Referendums Act 2000 s 109 (applications for assistance under s 110: see para 523 ante) is made before the twenty-ninth day of the referendum period in relation to each possible outcome of the referendum (Regional Assemblies (Preparations) Act 2003 s 9(3)(a)); and (2) the twenty-ninth day of the referendum period in any other case (s 9(3)(b)). However, if a Minister of the Crown makes an order under the Political Parties, Elections and Referendums Act 2000 s 109(6) (see para 522 ante), the appropriate day is the day specified in the order for the purposes of the Regional Assemblies (Preparations) Act 2003 s 9: s 9(4). As to the referendum period see para 519 ante; and for the meaning of 'outcome' see para 521 note 19 ante (provisions applied by virtue of s 12(5)).
8 Ibid s 9(1)(b). The text refers to the designation, in relation to each possible outcome of the referendum, of an organisation under the Political Parties, Elections and Referendums Act 2000 s 108 (see para 522 ante).
9 As to the entitlement to vote at such a referendum see the Regional Assemblies (Preparations) Act 2003 s 4; and para 548 ante.
10 As to the meaning of 'answer' see para 519 note 8 ante; definition applied by virtue of ibid s 12(5).
11 Ibid s 9(2). By virtue of s 12(5), as to the meaning of 'question' see para 519 note 8 ante.
12 Ie under ibid s 2(2) (see para 549 ante).
13 Ibid s 9(5).
14 Ibid s 9(6). As to the entitlement to vote at such a referendum see s 4; and para 549 ante.
15 Ibid s 9(7).
16 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.
17 As to the appointment of the chief counting officer and other counting officers for the purposes of referendums to which the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended) applies see para 545 ante. For these purposes, 'counting officer' includes a person appointed in pursuance of an order under the Regional Assemblies (Preparations) Act 2003 s 2(9) (see para 549 ante) for the purpose of certifying the number of ballot papers or votes cast in a referendum held in pursuance of an order under s 2(2) (see para 549 ante): s 10(3).
18 Ibid s 10(1)(a). The text refers to referendums to be held in pursuance of an order under Pt 1 (ss 1–12) (see para 547 et seq ante). See the Regional Assembly and Local Government Referendums (Counting Officers' Charges) Order 2004, SI 2004/2105.
19 Regional Assemblies (Preparations) Act 2003 s 10(1)(b). See note 18 supra.
20 Ibid s 10(2)(a). See note 18 supra.
21 Ibid s 10(2)(b). See note 18 supra.
22 Ibid s 10(2)(c). See note 18 supra.
23 Ibid s 10(2)(d). See note 18 supra.
24 Ie an order under ibid s 1 (see para 548 ante).
25 See ibid ss 21–24.

553. Local government reviews. If the Secretary of State[1] is considering whether to cause a referendum[2] to be held in a region about the establishment of an elected assembly for the region[3], he may direct the Boundary Committee for England[4]: (1) to carry out a local government review of the region[5]; (2) to make recommendations as to the matters considered by the review[6]. However, the Secretary of State must not give a direction unless he has considered the level of interest in the region in the holding of a referendum[7]. Such a direction may require the Boundary Committee to start the review not later than a specified date[8] and/or to make its recommendations not later than a specified date[9]. However, the Secretary of State must not give a direction containing such requirements unless he has consulted the Boundary Committee as to the dates he proposes to specify[10].

A review conducted in pursuance of a direction as mentioned in head (1) above is carried out by the Boundary Committee under specified provisions of the Local Government Act 1992, subject to modifications[11].

The recommendations made by the Boundary Committee in pursuance of a direction as mentioned in head (2) above must include at least two options for structural change in relation to each county area in the region[12]. At any time after he receives the recommendations, the Secretary of State may direct the Boundary Committee to supply him with additional information or advice[13] or reject one or more of the options[14]. If the Secretary of State rejects one or more of the options, he may direct the Boundary Committee either: (a) to make different recommendations[15]; or (b) to carry out a further local government review of the region and to make further recommendations[16].

If a referendum has been held in the region[17] and the Secretary of State proposes that an elected assembly is established for the region[18], he may by order give effect to all or any of the recommendations of the Boundary Committee made to him in pursuance of a direction under head (1) or head (2) above or under head (a) or head (b) above[19]. Specified provisions of the Local Government Act 1992 apply, subject to modifications, for the purposes of implementing such recommendations[20].

1 As to the Secretary of State see para 2 ante.

2 For the meaning of 'referendum' see para 519 ante; definition applied by virtue of the Regional Assemblies (Preparations) Act 2003 s 12(5).

3 As to such a referendum see para 548 ante.

4 Regional Assemblies (Preparations) Act 2003 s 13(1). As to the Boundary Committee for England see para 60 et seq ante. A direction under s 13 may be varied or revoked by a subsequent direction: s 13(10).

5 Ibid s 13(1)(a). A local government review is a review to consider appropriate structural change for the region and whether any boundary changes should be made in the region in connection with or to facilitate the carrying out of the structural change: s 14(1), (3). The Boundary Committee must not consider any boundary change in relation to: (1) any area in the region which is not the area of a relevant local authority unless it has the effect that any part of the area of a relevant local authority becomes part of the area of a local authority which is not a relevant local authority (s 14(1), (5)(a)); or (2) any area outside the region (s 14(1), (5)(b)). Relevant local authorities are the county council and district council for any area in the region in relation to which both councils have functions: s 14(1), (4). The Council of the Isles of Scilly is not a relevant local authority for these purposes but the Secretary of State may by regulations make such provision as he thinks appropriate in relation to the Isles of Scilly in consequence of anything done under or by virtue of Pt 2 (ss 13–20): s 20. As to districts and counties in England and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq. As to the Council of the Isles of Scilly see para 10 ante; and LOCAL GOVERNMENT vol 29(1) (Reissue) para 40.

In carrying out its functions under Pt 2, the Boundary Committee must: (a) assume that there is an elected assembly for the region (s 14(1), (8)(a)); (b) recommend structural change for so much of the area of the region as is comprised of the areas of all of the relevant local authorities in the region (s 14(1), 4(8)(b)); (c) have regard to the need to reflect the identities and interests of local communities (s 14(1), (8)(c)); (d) have regard to the need to secure effective and convenient local government (s 14(1), (8)(d)); (e) have regard to guidance issued by the Secretary of State (s 14(1), (8)(e)). The Boundary Committee may require a public body to give it such information as it reasonably requires in connection with its functions under Pt 2 (s 14(1), (6)); and a public body must comply with such a requirement (s 14(1), (7)). The Secretary of State may pay to the Electoral Commission such amount as he decides is the amount required by it to enable the Boundary Committee to carry out its functions under Pt 2 (s 19(1)); and such payment must be treated as income received by the Commission for the purposes of the Political Parties, Elections and Referendums Act 2000 s 1(6), Sch 1 para 14 (see para 39 ante) (Regional Assemblies (Preparations) Act 2003 s 19(2)). As to the Electoral Commission see para 31 et seq ante.

6 Ibid s 13(1)(b).

7 Ibid s 13(2). If at any time the Secretary of State is considering whether to cause a referendum to be held in two or more regions he may consider (for the purpose of deciding in respect of which (if any) regions to give a direction) any differences in the levels of interest in the different regions in the holding of a referendum: s 13(3). For these purposes, the Secretary of State must consider views expressed and information and evidence provided to him and such published material as he thinks appropriate: s 13(4). For the purposes of deciding in respect of which (if any) regions to give a direction the Secretary of State may also consider: (1) the effects he thinks the carrying out of a local government review will have on

the relevant local authorities (taken as a whole) in the region (s 13(5)(a)); (2) differences in the effects he thinks the carrying out of local government reviews will have on the relevant local authorities (taken as a whole) in different regions (s 13(5)(b)); (3) the implications for the Boundary Committee of the making of directions in respect of two or more regions at the same time or in close proximity of time (s 13(5)(c)); (4) the resources needed for the Boundary Committee to carry out local government reviews (s 13(5)(d)); (5) whether the Boundary Committee has made any recommendations in respect of a region in pursuance of an earlier direction under s 13 (s 13(5)(e)). For the purposes of heads (1) and (2) supra, the Secretary of State must have regard (in particular) to the number of relevant local authorities in a region and the number of people living in the areas of those authorities and he must ignore any effect of the implementation of recommendations of the Boundary Committee following a review: s 13(6). The number of people living in an area is taken to be the most recent estimate of that number published by the Office for National Statistics: s 14(1), (2).

8 Ibid s 13(8)(a).

9 Ibid s 13(8)(b).

10 Ibid s 13(9).

11 See s 15. The provisions of the Local Government Act 1992 specified in the Regional Assemblies (Preparations) Act 2003 s 15 apply to a review carried out by the Boundary Committee in pursuance of a direction under s 13 as they apply to a review carried out by it under the Local Government Act 1992 Pt II (ss 12–27) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) paras 62–71), subject to the modifications specified in the Regional Assemblies (Preparations) Act 2003 s 15.

12 Ibid s 16(1), (2). 'County area' must be construed in accordance with s 2(3) (see para 549 note 5 ante): s 16(7).

13 Ibid s 16(3)(a).

14 Ibid s 16(3)(b).

15 Ibid s 16(4)(a).

16 Ibid s 16(4)(b). If the Secretary of State acts under s 16(4)(b), then s 13(8)–(10) (see the text and notes 8–10 supra), s 14(3)–(8) (see note 5 supra), s 15 (see the text and note 11 supra) and s 16 apply for the purposes of the further review and recommendations: s 16(5). For these purposes, it is immaterial whether the Secretary of State has considered any of the matters in s 13(5) (see note 7 supra): s 16(6).

17 Ie in pursuance of an order under ibid s 1 (see para 548 ante).

18 Ibid s 17(1).

19 Ibid s 17(2). Such an order may give effect to a recommendation with or without modifications: s 17(3). If the Secretary of State believes that there has been a mistake in the preparation of such an order and that the mistake cannot be rectified by a subsequent such order, he may by order make such provision as he thinks is necessary or expedient to rectify the mistake: s 17(5).

20 Ibid s 17(4). The text refers to such provisions of the Local Government Act 1992 s 17 (as amended) (see para 92 ante) as are applied and modified under the Regional Assemblies (Preparations) Act 2003 s 17(4). The provisions of the Local Government Act 1992 specified in the Regional Assemblies (Preparations) Act 2003 s 18 apply, with modifications, to the implementation under s 17 of recommendations made by the Boundary Committee as they apply to the implementation of recommendations carried out under the Local Government Act 1992 Pt II (ss 12–27) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) paras 66–71): see the Regional Assemblies (Preparations) Act 2003 s 18.

(iii) Poll regarding the Functions of the Welsh Ministers

554. Poll held to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised. The Welsh Ministers[1] may hold a poll in an area consisting of Wales[2] or any part (or parts) of Wales for the purpose of ascertaining the views of those polled about whether or how any of the functions of the Welsh Ministers[3] should be exercised[4].

1 As to the Welsh Ministers see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

2 For the meaning of 'Wales' see para 13 note 1 ante.

3 Ie other than the function under the Government of Wales Act 2006 s 62 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

4 Ibid s 64(1). The provisions of the Government of Wales Act 2006 are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date (with references to the National Assembly for Wales instead of the Welsh Ministers) see the Government of Wales Act 1998 s 36(1).

555. Persons entitled to vote in a poll regarding the functions of the Welsh Ministers. The persons entitled to vote in a poll held in Wales to ascertain views about whether or how any of the functions of the Welsh Ministers should be exercised[1] are those who: (1) would be entitled to vote as electors at a local government election[2] in an electoral area[3] wholly or partly included in the area in which the poll is held[4]; and (2) are registered in the register of local government electors[5] at an address within the area in which the poll is held[6].

1 Ie a poll held under the Government of Wales Act 2006 s 64 (see para 554 ante).
2 As to entitlement to vote as a local government elector see para 112 et seq ante. For the meaning of 'local government election' see para 10 ante; and for the meaning of 'elector' for these purposes see para 110 note 2 ante.
3 For the meaning of 'electoral area' see para 10 ante.
4 Government of Wales Act 2006 s 64(2)(a). The provisions of the Government of Wales Act 2006 are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date (with references to the National Assembly for Wales instead of the Welsh Ministers) see the Government of Wales Act 1998 s 36(2)(a).
5 As to registration as a local government elector see para 128 et seq ante.
6 Government of Wales Act 2006 s 64(2)(b). As to the date at which this provision takes effect see note 4 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 36(2)(b).

556. Provision as to the conduct of polls regarding the functions of the Welsh Ministers. The Welsh Ministers[1] may by order make provision as to the conduct of polls (or any poll) held in Wales to ascertain views about whether or how any of their functions should be exercised[2] or for the combination of such polls (or any such poll) with polls at any elections[3]. Such an order may apply or incorporate, with or without modifications or exceptions, any provision of or made under any enactment relating to elections or referendums; and the provision which may be made as to the conduct of polls (or any poll) includes, in particular, provision for disregarding alterations in a register of electors[4].

1 As to the Welsh Ministers see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
2 Ie a poll held under the Government of Wales Act 2006 s 64 (see para 554 ante).
3 Ibid s 64(3). A statutory instrument containing such an order is subject to annulment in pursuance of a resolution of the National Assembly for Wales: s 64(5). The provisions of the Government of Wales Act 2006 are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes until that date (with references to the National Assembly for Wales instead of the Welsh Ministers) see the Government of Wales Act 1998 s 36(4), (5).
4 Government of Wales Act 2006 s 64(4). As to the date at which this provision takes effect see note 3 supra. As to the provision that applies until that date see the Government of Wales Act 1998 s 36(6).

(2) LOCAL REFERENDUMS

(i) Rules of Conduct for Local Referendums

557. Conduct of a local authority referendum. For the purposes of conducting a referendum held by a local authority under the Local Government Act 2000 on proposals for the operation of executive arrangements involving certain forms of executive[1], certain of the following statutory provisions which apply for the purposes of elections are applied with modifications, namely: (1) the Representation of the People Act 1983[2]; (2) the Representation of the People Act 2000[3]; (3) the Local Elections (Principal Areas) Rules 1986[4]; and (4) the Representation of the People (England and Wales) Regulations 2001[5].

Additional modifications to those provisions apply where the voting at such a referendum is to take place by post only[6].

1 Ie a referendum held under the Local Government Act 2000 s 27 or by virtue of regulations or an order under Pt II (ss 10–48) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222).

2 See the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2; and para 583 et seq post.

At the date at which this volume states the law, the provisions of the Representation of the People Act 1983 (including various of the provisions that are so applied and modified for the purposes of conducting a local authority referendum and for establishing relevant offences) have been amended by the Electoral Administration Act 2006. However, as the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 2 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 2 provide no guidance as to how those amendments should be incorporated into the scheme for conducting a local authority referendum, nor as to how any new provisions that have been added may be relevant, the provisions of the Representation of the People Act 1983 that are applied and modified are set out in this title in their unamended state: see para 583 et seq post.

3 Ie in relation to pilot schemes for voting and campaigning and in relation to absent voting provisions: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 1; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 1; and para 595 et seq post.

At the date at which this volume states the law, the provisions of the Representation of the People Act 2000 that are so applied and modified for the purposes of providing for absent voting in relation to a local authority referendum have been amended extensively by the Electoral Administration Act 2006 in order to: (1) require that absent voting applications contain an applicant's signature and date of birth (see s 14; and para 372 et seq ante); (2) allow certain detained mental patients to vote in person at polling stations who were previously prevented from doing so (see s 35; and para 368 ante); (3) replace the absent voters list with the postal voters list and the proxy postal voters list (see s 74(1), Sch 1 Pt 7; and para 372 et seq ante); and (4) make general provision for anonymous entries in the register of electors (see s 10(2), Sch 1 Pt 1; and para 378 et seq ante). However, as the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 1 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 1 provide no guidance as to how those amendments should be incorporated into the scheme for conducting a local authority referendum, nor as to how any new provisions that have been added may be relevant, the provisions of the Representation of the People Act 2000 that are applied and modified are set out in this title in their unamended state: see para 595 et seq post.

4 Ie the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 (as amended): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3; and para 578 et seq post. The 'LGA Referendum Rules' means so much of the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (as amended) as are applied (with or without modification), in relation to a referendum taking place in England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8 and, in relation to a referendum taking place in Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

At the date at which this volume states the law, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (as amended) apply only for the purposes of an election where the last date for the publication of the notice of election for that election was prior to 27 March 2007; for all other purposes those rules have been replaced, as from 2 January 2007, by the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304: see r 1; and para 388 et seq ante. The rules contained in r 3, Sch 2 differ from those that were previously applied and modified for the purposes of conducting a local authority referendum; they include, with relevant alterations and exceptions, the amendments made to the parliamentary elections rules by provisions of the Electoral Administration Act 2006 (as to which see notes 2, 3 supra) and make particular provision for: (1) security measures (i e security markings on ballot papers, the replacement of counterfoils on ballot papers with corresponding number lists, and the requirement for absent voting applications to contain an applicant's signature and date of birth) (see the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 rr 16–18, 22 et seq; and para 391 et seq ante); (2) alterations as to the circumstances in which a person may give a tendered vote (see Sch 2 rr 38, 39; and para 408 ante); (3) increased amounts of information and accessibility of information to be provided by officers to electors (see Sch 2 rr 22, 25 et seq; and paras 394, 411 et seq ante); (4) changes as to the persons who may be admitted to a polling station and

the count (see Sch 2 rr 30, 44; and paras 402, 431 ante); (5) transmission of information to a presiding officer of alterations to the electoral register taking effect on the day of the poll (see para 396 et seq ante); (6) anonymous entries in the register of electors (see para 394 et seq ante); (7) changes regarding the retention and inspection of election documents after the poll (see para 493 et seq ante); and (8) consequential amendments made to all the existing forms (see para 391 et seq ante). However, as the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3 provide no guidance as to how the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 should be applied and modified in order to provide a scheme for conducting a local authority referendum, the provisions of the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 (as amended; revoked for most purposes) are set out in this title as applied and modified by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3: see para 578 et seq post.

5 Ie the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended) (absent voters: see para 372 et seq ante) and Pt V (regs 64–91) (issue and receipt of postal ballot papers: see para 411 et seq ante): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 4; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 4; and para 597 et seq post.

At the date at which this volume states the law, the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pts IV, V (as amended) that are so applied and modified have been amended extensively by the Representation of the People (England and Wales) (Amendment) (No 2) Regulations 2006, SI 2006/2910, in order to: (1) provide for anonymous registration in the register of electors (see regs 19–22; and para 376 et seq ante); (2) replace references to counterfoils attached to ballot papers with references to the corresponding number list (see reg 30; and paras 414, 418 ante); (3) reflect the requirement that persons wishing to vote by post, by proxy or by postal proxy must provide their signature and date of birth when applying (see regs 31–34; and para 368 et seq ante); (4) specify the contents of the record of personal identifiers that the registration officer must keep and provide to a returning officer at an election (see reg 35; and para 371 ante); (5) specify the procedure upon receipt of postal ballot papers for verifying the personal identifiers provided in postal voting statements (see reg 39; and para 428 ante); (6) revise and update the lists of health care professionals and others who may attest applications for proxy votes (see reg 42; and paras 373, 377 ante, 600 post); (7) make provision to remove the restriction on certain detained mental patients voting in person at polling stations (see regs 43–44; and para 372 et seq ante); (8) set out the procedure by which a cancelled postal ballot paper should be retrieved from a ballot box (see reg 45; and paras 427, 429 ante); (9) make provision for the marked list of postal voters and the list of proxy postal voters to be marked to record receipt of a postal voting statement (see regs 48–53; and para 414 et seq ante); (10) make provision for the supply and inspection of unmarked lists of absent voters in advance of an election (see regs 55–56; and paras 378, 386 ante); (11) make provision requiring relevant registration officers to supply or disclose information in documents that have been used or marked at an election (see reg 59; and para 504 ante); (12) remove references to Maundy Thursday as a day to be ignored in certain timetables (see reg 60; and para 372 et seq ante); (13) provide for persons who make a request to set out the circumstances which require the sending of their ballot papers to an address that is different from the address that must be stated in the application (see reg 61; and paras 372, 376, 383 ante); (14) provide for the registration officer to notify a person when he is removed from the record of proxies who are entitled to vote by post (see reg 62; and paras 375, 381, 384 ante); (15) amend the list of persons who may be present at proceedings on the issue and receipt of postal ballot papers (see reg 63; and paras 414, 425 ante); (16) provide that a ballot paper envelope does not need to be marked with the number of the ballot paper where the ballot paper envelope contains a window through which the number of the ballot paper can be displayed (see reg 64; and para 416 ante); and (17) make amendments following the replacement of the declaration of identity with a postal voting statement (see reg 65; and para 411 et seq ante). However, as the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 4 and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 4 provide no guidance as to how those amendments should be incorporated into the scheme for conducting a local authority referendum, nor as to how any new provisions that have been added may be relevant, the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pts IV, V (as amended) that are applied and modified are set out in this title in their unamended state: see para 597 et seq post.

6 See the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4; and para 595 et seq post.

558. Conduct of poll consequent on a parish or community meeting. A poll consequent on a parish or community meeting[1], taken on any question arising at the meeting[2], is conducted in accordance with rules made by the Secretary of State[3]. Subject to any adaptations, alterations or exceptions made by those rules, the provisions of the rules with respect to the elections of parish or community councillors[4], and certain provisions of the Representation of the People Act 1983[5], apply in the case of a poll so taken[6].

1 As to the constitution of, and procedure at, parish and community meetings see LOCAL GOVERNMENT vol 29(1) (Reissue) para 255 et seq.

2 As to when such a poll may be demanded see para 586 post. Where the question involves an appointment to office, the poll is akin to an election; the conduct of such polls is considered in this title alongside the conduct of other types of election: see para 207 et seq ante.

3 See the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 258. As to the rules so made see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1 (as amended).

4 Ie the Local Elections (Parishes and Communities) Rules 2006, SI 2006/3305 (which have replaced the Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215 (revoked)): see para 388 et seq ante.

5 Ie the enactments mentioned in the Representation of the People Act 1983 s 187(1) (i e s 60 (see para 733 post), s 66 (as amended) (see paras 742–746 post), Pt II (ss 67–119) (as amended) (see para 238 et seq ante), Pt III (ss 120–186) (as amended) (see para 759 et seq post), and s 189 (see para 703 post)). Where the poll is to be taken on any question other than that of the election of the chairman of a parish meeting or of an appointment to any other office, the only provisions which apply are s 60, s 66 (as amended), s 113 (as amended) (see para 712 post), s 114 (see para 724 post), s 115 (as amended) (see para 726 post), s 119 (as amended) (see paras 237 ante, 766 post), s 160(4), (5) (as substituted) (see para 904 post), s 168 (as amended) (see para 885 post), s 169 (as amended) (see paras 886, 888 post), s 173 (as substituted and amended) (see para 904 post), s 174(5) (see para 907 post), s 176 (as amended) (see para 881 post), s 177 (as amended) (see para 882 post), s 179 (see para 889 post), s 180 (see paras 758, 884 post), s 181 (as amended) (see paras 819, 875, 880 post), s 186 (see para 766 post), and s 189: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). References to the proper officer of the authority for which the election was held must be taken as references to the returning officer (r 6(b)); and references to an election under the local government Act are deemed to include a reference to a poll consequent on a parish or community meeting (r 6(g)). As to other modifications that apply in this case see r 6(d), (e). As to a poll taken on any appointment to office see para 207 et seq ante. For the meaning of 'election under the local government Act' see para 10 note 2 ante.

6 Ibid r 5. The Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215, as they are applied and modified for the purposes of a poll consequent on a parish or community meeting, are set out in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule (as amended) and any such poll must be conducted in accordance with the rules set out therein: r 5.

559. Conduct of local poll under the Local Government Act 2003. A local authority[1] may conduct a poll[2] to ascertain the views of those polled about: (1) any matter relating to services provided in pursuance of the authority's functions or the authority's expenditure on such services[3]; or (2) any other matter if it is one relating to the authority's power[4] to promote the economic, social or environmental well-being of its area[5]. It is for the local authority concerned to decide who is to be polled and how the poll is to be conducted[6] but, in conducting such a poll, a local authority must have regard to any guidance issued by the appropriate person on facilitating participation in such a poll by such of those polled as are disabled people[7].

1 For these purposes, 'local authority' means: (1) in relation to England, a county council, a district council, a London borough council, the Greater London Authority, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly (Local Government Act 2003 s 116(5)(a)); and (2) in relation to Wales, a county council or a county borough council (s 116(5)(b)). As to districts and counties in England and county or county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24 et seq; as to the Council of the Isles of Scilly see LOCAL GOVERNMENT vol 29(1) (Reissue) para 40; as to the London boroughs and London borough councils see LONDON GOVERNMENT vol 29(2) (Reissue) para 30 et seq; as to the Court of Common

Council of the City of London see LONDON GOVERNMENT vol 29(2) (Reissue) para 51 et seq; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq.

2 The power to conduct a poll under ibid s 116 is without prejudice to any powers of a local authority exercisable otherwise than by virtue of s 116: s 116(4).

3 Ibid s 116(1)(a).

4 Ie the power under the Local Government Act 2000 s 2 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 412).

5 Local Government Act 2003 s 116(1)(b).

6 Ibid s 116(2).

7 Ibid s 116(3).

(ii) Preparing for the Referendum

A. LOCAL AUTHORITY REFERENDUM ON PROPOSALS FOR ARRANGEMENTS

(A) In general

560. Proposals for which a referendum is required. Under the Local Government Act 2000[1], local authorities[2] are able to make arrangements for the discharge of their functions by executives ('executive arrangements')[3]. Where an authority's proposals for an executive[4] involve an elected mayor[5] or where regulations so prescribe, the authority: (1) must hold a referendum on its proposals before taking any steps to implement them[6]; and (2) must draw up and send to the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales, an outline of the fall-back proposals[7] that it intends to implement if the proposals for the operation of executive arrangements are rejected in a referendum[8].

A referendum may be held, in such circumstances as may be prescribed, on whether a local authority should operate executive arrangements involving a form of executive for which a referendum is required: (a) following receipt by the local authority of a valid petition from local government electors[9]; (b) following a direction to the local authority from the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales[10]; or (c) following an order made by the Secretary of State or the Assembly (as the case may be) which requires every local authority, or every local authority falling within any description of authority specified in the order, to hold such a referendum[11]. In the event of any failure by an authority to take any action which may or must be taken by the authority under the provisions which relate to any of the procedures under head (a) or head (b) above[12], the Secretary of State, in relation to England, or the National Assembly for Wales, in relation to Wales, may take that action[13].

1 Ie under the Local Government Act 2000 Pt II (ss 10–48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq).

2 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.

3 See the Local Government Act 2000 s 10; and LOCAL GOVERNMENT vol 29(1) (Reissue) para 207. The executive must take one of the forms specified in s 11(2)–(4) or in regulations under s 11(5): see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212 et seq.

4 As to the drawing up of proposals for the operation of executive arrangements see ibid s 25; and LOCAL GOVERNMENT vol 29(1) (Reissue) para 220.

5 Ie a mayor and cabinet executive or a mayor and council manager executive (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212). For the meaning of 'elected mayor' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 227. As to elections for the return of an elected mayor for a local authority see para 205 et seq ante.

6 See the Local Government Act 2000 s 27(1)(a); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 222.

7 Fall-back proposals are proposals for the operation of executive arrangements which do not involve a form of executive for which a referendum is required, or for the operation of alternative arrangements of

a particular type permitted by regulations under ibid s 32 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 231): see s 27(2); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 222.

8 See ibid ss 27(1)(b), 106(1); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 222.

9 See ibid s 34; and LOCAL GOVERNMENT vol 29(1) (Reissue) para 223. See further para 561 et seq post.

10 See ibid ss 35, 106(1); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 224. See further para 572 et seq post.

11 See ibid ss 36, 106(1); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 225. At the date at which this volume states the law, no further provision had been made for the holding of a referendum following such an order as is described in head (c) in the text.

12 Ie, in relation to England, the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pts II–IV (regs 3–24) (as amended) or, in relation to Wales, the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pts II–IV (regs 3–24) (as amended) (see para 561 et seq post).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 25; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 25.

(B) Petition to Local Authority calling for a Referendum to be Held

561. Petitions calling for local authority referendum. An authority[1] must hold a referendum[2] where it receives a valid petition[3], but it is not required to hold such a referendum where it receives a petition which is not a valid petition[4]. A petition may be presented to a local authority either by properly addressing, pre-paying and posting it, or by delivering it, to any office of the authority (in relation to England) or to the authority's principal office (in relation to Wales)[5].

1 Ie, in relation to England, a district or a London borough council (Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 1(2)); and, in relation to Wales, a county or county borough council (Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 2(1)). See LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.

2 Ie, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) or, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended).

3 For these purposes, 'valid petition' has the meaning given by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1), in relation to England, and by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1) (as amended), in relation to Wales (see para 565 post): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 6(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 6(1). The requirement set out in the text is, in relation to England, subject to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7 (see para 563 post) and reg 19 (see para 573 post) and, in relation to Wales, subject to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7 (see para 563 post), reg 8(8) (see para 564 post) and reg 19 (see para 573 post).

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 6(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 6(2).

562. Verification number for petitions calling for local authority referendum. In relation to England[1], in each year[2], the proper officer[3] of each authority[4] must, within the period of 14 days beginning with 15 February, publish the number that is equal to 5 per cent of the number of local government electors[5] for the authority's area shown in the revised version of the register or, as the case may be, the registers having effect for that area on that 15 February[6]. The number so published in each year is to be used for verification purposes[7] in relation to any petition presented to the authority in the period of 12 months beginning with 1 April in that year[8], unless the

number published is less than the number published in the preceding year, in which case the number to be used for verification purposes, in relation to any petition presented to the authority in the period beginning on the date of publication of the lesser number and ending immediately before 1 April in that year, must be that lesser number[9]. As soon as reasonably practicable after the publication of the verification number, the authority must publish in at least one newspaper circulating in its area a notice containing a statement[10]: (1) that the authority's proper officer has published the number that is equal to 5 per cent of the number of local government electors shown in the electoral register or registers having effect on 15 February in that year[11]; (2) of the number so published[12]; (3) that the number so published is to have effect for the purposes of determining the validity of petitions presented after 31 March in the year of publication and before 1 April in the following year, unless a different number has effect[13] because the number published is less than the number published in the preceding year[14]; (4) the effect of the provision[15] that applies where the number published is less than the number published in the preceding year[16]; and (5) of the address of the authority's principal office[17].

In relation to Wales[18], for the purposes of each petition period[19], the proper officer[20] of each authority[21] must, within the period of 14 days beginning with the verification date[22], publish the number that is equal to 10 per cent of the number of local government electors for the authority's area shown in the revised version of the registers having effect for the area on the verification date[23]. The number so published is to be used for verification purposes[24] in relation to any petition presented to the authority during the petition period that is to commence seven months after the verification date to which that number relates[25]. As soon as reasonably practicable after the publication of a verification number, the authority must publish in at least one newspaper circulating in its area a notice containing a statement[26]: (a) that the authority's proper officer has published the number that is equal to 10 per cent of the number of local government electors shown in the electoral register or registers having effect for the authority's area on the date that[27] is the verification date[28]; (b) of the number so published[29]; (c) that the number so published will have effect for the purposes of determining the validity of petitions presented to the authority during the petition period for that authority that will commence seven months after the verification date referred to in head (a) above[30]; (d) of the dates on which that petition period for the authority will commence and end[31]; and (e) of the address of the authority's principal office[32].

1 For the meaning of 'England' see para 13 note 1 ante.

2 Ie each year commencing with the year beginning on 1 January 2002.

3 For the meaning of 'proper officer' see para 155 note 2 ante; definition applied by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3.

4 For the meaning of 'authority' in relation to England see para 561 note 1 ante.

5 As to entitlement to vote as a local government elector see para 112 et seq ante. For the meaning of 'local government election' see para 10 ante; and for the meaning of 'elector' see para 110 note 2 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 4(1) (reg 4 substituted by SI 2001/760). Where the whole of the period of 12 months beginning with 1 April in any year to which the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 4(1) (as substituted) applies falls within a moratorium period, reg 4(1) (as substituted) does not apply as respects the years in which part of that period of 12 months falls: reg 4(2) (as so substituted). For these purposes, 'moratorium period', in relation to a local authority's area and a petition in England, means the period of 48 months commencing with the day on which a referendum was last held under the Local Government Act 2000 Pt II (ss 10–48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3.

In connection with the discharge of the duty imposed by reg 4(1) (as substituted), the proper officer may require an electoral registration officer to provide him with information relevant to the number that is to be so published; and an electoral registration officer who receives such a request must comply with

it within the period of seven days beginning with the day on which the request is received: reg 4(5) (as so substituted). As to electoral registration officers see para 154 et seq ante.

7 In relation to England, 'verification purposes' means the purposes of establishing whether a petition is a valid petition by establishing the matters mentioned in ibid reg 8(3) (see para 564 post) or under reg 9(1)(a) (see para 565 post): reg 3. For the meaning of 'valid petition' see para 561 note 3 ante.

8 Ibid reg 4(3) (as substituted: see note 6 supra). 'Verification number', in relation to a petition, means the number to be used for verification purposes by virtue of reg 4 (as substituted): reg 3.

9 Ibid reg 4(4) (as substituted: see note 6 supra).

10 Ibid reg 5 (amended by SI 2001/670).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 5(a) (amended by SI 2001/670).

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 5(b).

13 Ie by virtue of ibid reg 4(4) (as substituted) (see the text and note 9 supra).

14 Ibid reg 5(c) (reg 5(c), (d) substituted by SI 2001/670).

15 Ie the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 4(4) (as substituted) (see the text and note 9 supra).

16 Ibid reg 5(d) (as substituted: see note 14 supra).

17 Ibid reg 5(e).

18 For the meaning of 'Wales' see para 13 note 1 ante.

19 Ie subsequent to the first such period (as to which see the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 4(1), (2) (reg 4 substituted by SI 2003/398)). For these purposes, 'petition period' has the meaning given by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3A (as added): reg 3 (definition added by SI 2003/398). Accordingly, the local government electorate for an authority's area in Wales may present petitions to that authority during a petition period, whose duration is six months: Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3A(1), (2) (reg 3A added by SI 2003/398). Periods subsequent to the first (as to which see the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3A(3) (as so added)), commence on the date that is 12 months before the date on which each subsequent ordinary local government elections are to be held: reg 3A(4) (as so added). If part or the whole of one or more of an authority's petition periods as so determined are to fall within a moratorium period, that petition period, or those petition periods (which, for these purposes, are to be treated as a single petition period), commence on the date during that moratorium period that is 12 months before the earliest date on which a second (or subsequent) referendum may lawfully be held in the area of that authority: reg 3A(5) (as so added). Where an authority does not receive a valid petition during a petition period so determined, the date on which the next petition period for that authority commences is the date that is 12 months before the date on which the next ordinary local government elections are to be held: reg 3A(6) (as so added). However, this provision does not apply where part or the whole of a petition period determined in accordance with reg 3A(6) (as added) will fall within a year in which part or the whole of a petition period determined in accordance with reg 3A(5) (as added) falls: reg 3A(7) (as so added). Where an authority does not receive a valid petition during a petition period determined in accordance with reg 3A(5) (as added) and, by virtue of reg 3A(7) (as added), reg 3A(6) (as added) does not apply, the next petition period for that authority commences on the date that is 12 months before the date on which the ordinary local government elections which are subsequent to the next ordinary local government elections are to be held: reg 3A(8) (as so added). For these purposes, 'moratorium period', in relation to Wales, means the period of five years commencing on the date on which an authority holds a referendum under the Local Government Act 2000 Pt II (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq): Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3 (definition substituted by SI 2003/398). As to ordinary local government elections see para 204 et seq ante.

20 For the meaning of 'proper officer' see para 155 note 2 ante; definition applied by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

21 For the meaning of 'authority' in relation to Wales see para 561 note 1 ante.

22 In relation to Wales, 'verification date' means the date that is seven months before the commencement of a petition period: Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3 (definition added by SI 2003/398).

23 Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 4(3) (as substituted: see note 19 supra). The proper officer may, in connection with the discharge of the duty imposed by reg 4(3) (as substituted), make a request in writing to an electoral registration officer to provide the proper officer with information relevant to the number that is to be so published; and an

electoral registration officer who receives such a request must comply with it within the period of seven days beginning with the day on which the request is received: reg 4(5) (as so substituted).

24 In relation to Wales, 'verification purposes' means the purposes of establishing whether a petition is a valid petition: ibid reg 3. For the meaning of 'valid petition' see para 561 note 3 ante.

25 Ibid reg 4(4) (as substituted: see note 19 supra). 'Verification number', in relation to a petition, means the number to be used for verification purposes by virtue of reg 4(4) (as substituted): reg 3 (definition substituted by SI 2003/398).

26 Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 5 (reg 5 substituted by SI 2003/398).

27 Ie for the purposes of a petition period subsequent to the first (as to which see note 19 supra).

28 Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 5(a) (as substituted: see note 26 supra).

29 Ibid reg 5(b) (as substituted: see note 26 supra).

30 Ibid reg 5(c) (as substituted: see note 26 supra).

31 Ibid reg 5(d) (as substituted: see note 26 supra).

32 Ibid reg 5(e) (as substituted: see note 26 supra).

563. Post-announcement and post-direction petitions calling for local authority referendum. In relation to a petition received after an authority[1] has given notice of its intention to hold a referendum and of the date on which that referendum will be held[2] on proposals which involve a directly elected mayor, the authority is not required[3] to hold a referendum or to take any steps other than[4] steps to secure that the proper officer[5] as soon as reasonably practicable after the receipt of the petition notifies the petition organiser[6] and (in relation to England) the Secretary of State or (in relation to Wales) the National Assembly for Wales of the receipt of the petition, that the petition is a post-announcement petition[7] and that the authority proposes to take no further action in relation to it and notifies the petition organiser that he may, within the period of two months beginning with the date of the notice, request the Secretary of State or the National Assembly for Wales (as the case may be) to consider the exercise of any power conferred in relation to referendums which follow a direction to the local authority from the Secretary of State or the National Assembly for Wales (as the case may be)[8].

Where a petition is received by an authority after it has received a direction to hold a referendum[9] and before it has given notice of the date on which the referendum is to be held pursuant to the direction, and the constitutional change[10] proposed in the petition is the same as that in relation to which the direction requires the referendum to be held, the authority must take no further action in relation to the petition and must as soon as reasonably practicable[11] notify the Secretary of State or the National Assembly for Wales (as the case may be) and the petition organiser: (1) of the receipt of the petition[12]; and (2) that it proposes to take no further action in relation to the petition because it proposes the same constitutional change as that in relation to which the referendum is to be held pursuant to the direction[13].

Where a petition is received by an authority after it has received a direction to hold a referendum[14] and before it has given notice of the date on which the referendum is to be held pursuant to the direction[15] and the constitutional change proposed in the petition is not the same as that in relation to which the direction requires the referendum to be held[16], the authority must secure that the proper officer determines[17] whether the petition is a valid petition[18]. Where the proper officer determines that a petition of such a description is not a valid petition, the proper officer must publicise the invalid petition[19] but, subject to that, the authority must take no further action in relation to the petition[20] and the date of the direction is to be[21] the date of the proper officer's determination[22].

1 For the meaning of 'authority' see para 561 note 1 ante.

2 Ie, in relation to England, whether pursuant to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) or a direction under reg 18 (see para 572 post) or, in relation to Wales, whether pursuant to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended) or a direction under reg 18 (see para 572 post) or, in either case, pursuant to the Local Government Act 2000 s 27 (referendum in case of proposals involving elected mayor: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222).

3 Ie by anything, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (as amended) or, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (as amended).

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(1). As well as the steps set out in the text and notes 5–8 infra, the authority is also required to take the steps specified, in relation to England, by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 12 and, in relation to Wales, by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 12 (public inspection of petitions: see para 567 post).

5 For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

6 'Petition organiser', in relation to constituent petitions amalgamated in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(1) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(1) (see para 564 post), means the person determined in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(5) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(5) (see para 565 post) and, in any other case, has the meaning given by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(4) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(4) (see para 565 post): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

7 'Post-announcement petition' means a petition received in the circumstances mentioned in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(1) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(1): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(2). The text refers to any power conferred on the Secretary of State by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt III (regs 18–22) (as amended) or on the National Assembly for Wales by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt III (regs 18–22) (as amended) (see para 572 et seq post).

9 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1) (see para 572 post).

10 'Constitutional change' means: (1) unless a local authority is operating executive arrangements which involve an elected mayor, a proposal that the authority should operate executive arrangements: (a) under which the executive takes the form specified in the Local Government Act 2000 s 11(2), (4) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212) or otherwise involves an elected mayor; or (b) in a form that is not specified in the proposal (Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3 (definition substituted by SI 2001/760); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3); or (2) where a local authority is operating executive arrangements which involve an elected mayor ('existing executive arrangements'), a proposal that the authority should operate executive arrangements under which the executive takes a form which is specified in the proposal, involves an elected mayor, and differs from the form of executive under the existing executive arrangements (Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3 (definition as so substituted);

Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3). For these purposes, in relation to a direction under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1) (see para 572 post) that requires an authority to hold a referendum on a form of executive that includes an elected mayor, a petition received subsequently by that authority in which the form of executive is not specified must be treated as proposing the same constitutional change; and other constitutional changes must be treated as the same if they propose executive arrangements under which the executive takes the same form: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(7); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(7).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(3).

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(4)(a).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(4)(b).

14 See note 9 supra.

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(5)(a).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(5)(b).

17 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (as amended) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (as amended).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(5); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(5).

19 Ie, in relation to England, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(1) or, in relation to Wales, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(1) (see para 568 post).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(6)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(6)(a).

21 Ie in relation to England, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21 or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21 (see para 574 post).

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(6)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(6)(b).

564. Amalgamation of petitions calling for local authority referendum. Where more than one petition relating to the same area has been prepared, those petitions may, at any time before their presentation to the authority[1], be amalgamated; and those petitions must then be treated for all other purposes related to such petitions[2] as a single petition[3]. Where constituent petitions amalgamated in this way do not propose the same constitutional change[4], the amalgamated petition must not be entertained by the authority unless it is accompanied by a statement, signed by the petition organiser[5] in relation to the amalgamated petition, that the amalgamated petition is presented with the agreement of the petition organiser of each of the constituent petitions[6].

Where an authority receives more than one petition relating to the same area, the proper officer[7] must, if satisfied as to their validity[8], amalgamate those petitions[9]; and those petitions must then be treated[10] as a single petition[11]. However, the proper officer must not amalgamate petitions if he is satisfied that the first petition received by the authority[12] contains a number of signatures of local government electors for the authority's area that equals or exceeds the verification number[13] and is, in other respects, a valid petition[14]. The proper officer: (1) must not amalgamate petitions that do not propose the same constitutional change unless the proper officer has obtained in writing the agreement of the petition organiser of each petition that would, after amalgamation, be a constituent petition[15]; and (2) must inform each petition organiser whose agreement is required for the purposes of head (1) above of the consequences of amalgamation[16].

Petitions must be amalgamated in the order in which they are received except that, where more than one petition is received on the same day: (a) the petition that contains the greatest number of signatures must be treated as the first to be received[17]; (b) the petition that proposes the same constitutional change as that proposed in the petition identified in accordance with head (a) above must be treated as the second to be received and, if there is more than one such petition, those petitions must be treated as received in sequence, beginning with the petition that contains the greater number of signatures[18]; and (c) any other petitions must be treated as received in the following order: (i) the petition that contains the greatest number of signatures[19]; (ii) the petition, if any, that proposes the same constitutional change as the petition identified in accordance with head (i) above[20]; (iii) the petition that contains the next greatest number of signatures[21]; (iv) the petition, if any, that proposes the same constitutional change as the petition identified in accordance with head (iii) above[22]; (v) the petition that contains the next greatest number of signatures[23], and so on[24].

In relation to Wales, where an authority receives more than one petition on the same day and those petitions each contain a number of signatures of local government electors for the authority's area that equals or exceeds the verification number and are, in other respects, valid petitions and those petitions do not propose the same constitutional change, that authority must make a determination as to the petition in relation to which it will hold a referendum[25]. Before making such a determination the authority in Wales must take into account the outcome of any prior consultation undertaken by that authority[26] and, if the authority considers it necessary, undertake further consultation with the local government electors for, and other interested persons in, the authority's area[27].

Where an amalgamated petition results from the combination of constituent petitions which do not propose the same constitutional change, the amalgamated petition must be treated[28] as proposing that the authority should operate executive arrangements under which the proposed form of executive is not specified[29].

1 For the meaning of 'authority' see para 561 note 1 ante.

2 Ie, in relation to England, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) or, in relation to Wales, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended).

3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(1). 'Petition', unless the context otherwise requires, includes an amalgamated petition (see note 6 infra): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

4 For these purposes, constitutional changes must be treated as the same if they propose executive arrangements under which the executive takes the same form or if the proposed form of executive is not

specified: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(8); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(11).

5 For the meaning of 'petition organiser' see para 563 note 6 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(2). For these purposes, 'constituent petitions' means petitions that have been amalgamated; and 'amalgamated petition' means the single petition resulting from an amalgamation of petitions in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(1), (2) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(1), (2): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

7 For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

8 Ie in every respect other than that mentioned, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(a) or, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(a) (see para 565 post).

9 Ie, in relation to England, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6) or, in relation to Wales, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7) (see the text and notes 17–24 infra).

10 See note 2 supra.

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(3).

12 Ie including constituent petitions amalgamated, in relation to England, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(1) or, in relation to Wales, in compliance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(1) (see the text and notes 1–3 supra).

13 As to entitlement to vote as a local government elector see para 112 et seq ante; and as to the verification number see para 562 ante.

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(4). Once a petition amalgamated in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(3) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(3) (see the text and notes 7–11 supra) contains a number of signatures of local government electors for the authority's area that in aggregate equals or exceeds the verification number and is, in other respects, a valid petition, the proper officer must not amalgamate any other petition with that amalgamated petition: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(5).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(6)(a).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(6)(b). The text refers to the consequence of amalgamation specified in the text and notes 28–29 infra.

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(a).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(b).

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(i).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(ii).
21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(iii).
22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(iv); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(iv).
23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c)(v); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c)(v).
24 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(6)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(7)(c).
25 Ibid reg 8(8).
26 Ibid reg 8(9)(a). The text refers to prior consultation undertaken in pursuance of the Local Government Act 2000 s 25 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 220) or s 31 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 232) or in pursuance of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17 (see para 570 post) or reg 19 (see para 573 post).
27 Ibid reg 8(9)(b).
28 See note 2 supra.
29 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(7); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(10).

565. Formalities and validity of petitions calling for local authority referendum. A petition[1] is a valid petition if: (1) it is signed by not less than the verification number[2]; (2) it satisfies the requirements as to formalities[3]; and (3) it is presented to the authority[4] to which it is addressed, in relation to England, on a day other than one that falls within a moratorium period[5] or, in relation to Wales, on a day that falls within a petition period[6] for that authority[7]. In determining whether the petition satisfies the requirements of head (1) above: (a) where a person signs a petition but the information regarding his name and address[8] is not included, or is not included in a legible form, that person's signature must be disregarded[9]; (b) if a person signs a petition more than once, that person's second or subsequent signature must be disregarded[10]; and (c) any signature on a petition which bears a date earlier than twelve months (in relation to England) or six months (in relation to Wales) before the petition date[11] must be disregarded[12]. A petition is not invalid by reason only of a failure to satisfy any requirement as is mentioned in head (2) above if the constitutional change[13] in relation to which the referendum is sought can be ascertained[14].

A petition must on each sheet state the name of the authority to whom it is addressed[15] and the constitutional change in relation to which the referendum is sought[16], as well as containing a statement in the prescribed terms[17] or in terms to similar effect[18]. In relation to each person who signs a petition, the following information must be given: (i) that person's first name and surname and address[19]; and (ii) the date on which that person signs the petition[20]. A petition must contain, or must be accompanied by a statement that contains, the name and full address of the person (the 'petition organiser'[21]) to whom correspondence relating to the petition is to be sent[22]. Where petitions are amalgamated before they are presented to the authority, the petition organiser of each of the constituent petitions must determine the identity of the person (whether or not that person is the petition organiser of any of the constituent petitions) who is to be the petition organiser for the purposes of the amalgamated petition[23]; and the petition organiser of the amalgamated petition must notify the authority of his name and full address[24].

1 As to the meaning of 'petition' see para 564 note 3 ante.

2 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(a). As to the verification number see para 562 ante.

3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(b). The text refers to the requirements of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10 (in relation to England) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10 (in relation to Wales) (see the text and notes 15–24 infra).

4 For the meaning of 'authority' see para 561 note 1 ante.

5 For the meaning of 'moratorium period' see para 562 note 6 ante.

6 For the meaning of 'petition period' see para 562 note 19 ante.

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(c) (added by SI 2001/760); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(c) (substituted by SI 2003/398).

8 Ie the information referred to in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(3)(a) (in relation to England) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(3)(a) (in relation to Wales) (see head (i) in the text).

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(3).

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(4).

11 In relation to England, 'petition date' means: (1) in relation to a petition submitted prior to the publication of the verification number in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 4(1) (see para 562 ante), the date on which that verification number is published; (2) subject to head (4) infra, in relation to constituent petitions amalgamated in accordance with reg 8(2) (see para 564 ante), the latest date on which any of the petitions amalgamated was received by the authority; (3) subject to head (4) infra, in relation to any other petition, the date on which it was received by the authority; and (4) in relation to a petition received within the period of six months beginning with the date that is 12 months before the earliest date on which a second (or subsequent) referendum may lawfully be held in the area of the authority to whom the petition is addressed, the date on which that period of six months ends: reg 3. In relation to Wales, 'petition date' means, in relation to constituent petitions amalgamated in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(3) (see para 564 ante), the latest date on which a constituent petition was received by the authority; and, in relation to any other petition, the date on which it was received by the authority: reg 3 (amended by SI 2003/398). For the meanings of 'amalgamated petition' and 'constituent petition' see para 564 note 6 ante.

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(5); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(5) (amended by SI 2003/398).

13 For the meaning of 'constitutional change' see para 563 note 10 ante.

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(2).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(1)(a).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(1)(b).

17 Ie in the term set out, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(2), Sch 1 (petition statement) and, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(2), Sch 1 (petition statement).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(2).

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(3)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(3)(a).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(3)(b).

21 For the meaning of 'petition organiser' see para 563 note 6 ante.

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(4).

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(5)(a).

24 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(5)(b).

566. Procedure on receipt of petitions calling for local authority referendum. As soon as reasonably practicable after receipt of a petition[1], the proper officer[2] must, if he has amalgamated the petition[3], notify the petition organiser[4] of each of the constituent petitions[5] of the petition date[6] of the amalgamated petition[7] or, in any other case, notify the petition organiser of the petition date[8]. As soon as reasonably practicable after receipt of a petition, and not later than the end of the notice period[9], the proper officer must determine the validity of the petition[10].

Where the petition is a second or subsequent petition ('later petition') which cannot lawfully be amalgamated with an earlier petition[11], the proper officer must[12]: (1) within the notice period, notify the petition organiser and (in relation to England) the Secretary of State or (in relation to Wales) the National Assembly for Wales[13]: (a) of the receipt of the petition and of its petition date[14]; (b) of the receipt of every earlier petition and of its petition date[15]; (c) of the reason why the later petition cannot be amalgamated with any earlier petition[16]; and (d) that, by reason of the receipt of an earlier valid petition[17], the proper officer proposes to take no further action in relation to the later petition[18]; (2) notify the petition organiser that the petition organiser may, within the period of two months beginning with the date of the notice, request the Secretary of State or the National Assembly for Wales (as the case may be) to consider the exercise of any power[19] to require a referendum to be held following a direction to the authority[20]; and (3) take such other steps as the Secretary of State or the National Assembly for Wales (as the case may be) may direct[21].

1 As to the meaning of 'petition' see para 564 note 3 ante.

2 For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

3 Ie, in relation to England, if the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(3) applies in relation to the petition or, in relation to Wales, if the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(3) applies in relation to the petition (see para 564 ante).

4 For the meaning of 'petition organiser' see para 563 note 6 ante.

5 For the meaning of 'constituent petition' see para 564 note 6 ante.

6 For the meaning of 'petition date' see para 565 note 11 ante.

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(1)(a). For the meaning of 'amalgamated petition' see para 564 note 6 ante.

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(1)(b).

9 For these purposes, 'notice period', in relation to a petition, means the period of one month beginning with the petition date: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3.

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(2). As to the validity of petitions see para 565 ante.

11 Ie for a reason mentioned in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 8(4), (5) (in relation to England) or in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 8(4)–(6) (in relation to Wales) (see para 564 ante).

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(3).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a)(i).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a)(ii).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a)(iii).

17 For the meaning of 'valid petition' see para 561 note 3 ante.

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(a)(iv); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(a)(iv).

19 Ie any power conferred on the Secretary of State by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18 or on the National Assembly for Wales by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18 (see para 572 et seq post).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(4)(b). For the meaning of 'authority' see para 561 note 1 ante.

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(3).

567. Public inspection of petitions calling for local authority referendum. The authority[1] must secure that, for the period of six years beginning with the petition date[2], a petition[3] is available at its principal office for inspection by members of the public at all reasonable times and free of charge[4].

1 For the meaning of 'authority' see para 561 note 1 ante.

2 For the meaning of 'petition date' see para 565 note 11 ante.

3 As to the meaning of 'petition' see para 564 note 3 ante.

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 12; Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 12.

568. Publicity for petitions calling for local authority referendum. Where the proper officer[1] is satisfied that a petition[2] is valid[3], he must, within the notice period[4], notify the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales), as well as the petition organiser[5]: (1) of the proper officer's conclusion[6]; and (2) that a referendum is to be held[7]. In such a case, the authority[8] must publish in at least one newspaper circulating in its area a notice which contains a statement[9]: (a) that a valid petition[10] has been received[11]; (b) of the

constitutional change[12] sought or, as the case may be, treated as sought, by the petition[13]; (c) of the petition date[14]; (d) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge[15]; (e) of the address of the authority's principal office[16]; and (f) that a referendum is to be held[17].

Where the proper officer is satisfied that a petition is not a valid petition, he must, within the notice period[18], notify the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales), as well as the petition organiser (if any), of his determination and of the reasons for that determination[19]. In such a case, the authority must publish in at least one newspaper circulating in its area a notice which contains a statement[20]: (i) that a petition has been received which has been determined to be an invalid petition[21]; (ii) of the reasons for that determination[22]; (iii) of the constitutional change sought or, as the case may be, treated as sought, by the petition[23]; (iv) of the petition date[24]; (v) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge[25]; and (vi) of the address of the authority's principal office[26]. Where a petition is invalid only because it does not comply with the requirement that it be signed by not less than the verification number[27], the notification of invalidity[28] and the associated statement to be published by the authority containing the information set out in heads (i) to (vi) above must also include a statement that the invalid petition may be amalgamated with any subsequent petitions which are submitted to the authority[29].

1 For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

2 As to the meaning of 'petition' see para 564 note 3 ante.

3 As to the validity of petitions see para 565 ante.

4 For the meaning of 'notice period' see para 566 note 9 ante.

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1). For the meaning of 'petition organiser' see para 563 note 6 ante. In relation to Wales, it is specified that, where the petition has been amalgamated in accordance with reg 8(3) (see para 564 ante), the petition organiser of each of the constituent petitions must be notified: see reg 13(1). For the meaning of 'constituent petition' see para 564 note 6 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1)(a).

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1)(b).

8 For the meaning of 'authority' see para 561 note 1 ante.

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2).

10 For the meaning of 'valid petition' see para 561 note 3 ante.

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(a).

12 For the meaning of 'constitutional change' see para 563 note 10 ante.

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(b).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(c). For the meaning of 'petition date' see para 565 note 11 ante.

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(d). See para 567 ante.

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(e).

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(2)(f); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(2)(f).

18 In relation to Wales, the proper officer must, if possible, make the notification within the petition period, where the petition satisfies the requirements of ibid reg 9(1)(c) (as substituted) (see para 565 ante): reg 14(1) (amended by SI 2003/398). For the meaning of 'petition period' see para 562 note 19 ante.

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(1). In relation to Wales, where the authority has made a determination under reg 8(8) (see para 564 ante), the proper officer must, within the notice period, notify the National Assembly for Wales and the petition organiser of the authority's determination and the reasons for that determination: reg 14(2). In such a case, the authority must publish in at least one newspaper circulating in its area a notice which contains a statement: (1) that a valid petition has been received (reg 14(5)(a)); (2) that the authority will not take any action in relation to that petition on account of its having made a determination under reg 8(8) (reg 14(5)(b)); (3) of the reasons for that determination (reg 14(5)(c)); (4) of the constitutional change sought by the petition (reg 14(5)(d)); (5) of the petition date (reg 14(5)(e)); (6) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge (reg 14(5)(f)); and (7) of the address of the authority's principal office (reg 14(5)(g)).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3) (amended by SI 2003/398). In relation to Wales, where a petition in relation to which a notice is to be published in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3) (as amended) satisfies the requirements of reg 9(1)(c) (as substituted) (see para 565 ante), the authority must, if possible, publish that notice within the petition period and within the notice period: reg 14(3A) (added by SI 2003/398).

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(a).

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(b).

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(c).

24 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(d).

25 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(e).

26 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(2)(f); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(3)(f).

27 Ie where the petition does not comply with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 9(1)(a) (in relation to England) or with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 9(1)(a) (in relation to Wales) (see para 565 ante). As to the verification number see para 562 ante.

28 Ie the notification under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(1) (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(1) (as amended) (in relation to Wales) (see the text and notes 18–19 supra).

29 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(4).

569. Timing of local authority referendum in consequence of a valid petition. Except where the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) holds a referendum in exercise of the default power[1], a referendum in consequence of a valid petition[2] must be held[3] not later than[4] the end of the period of six months beginning with the petition date[5]; and a referendum must not be held before the end of the period of two months beginning with the date on which proposals for the operation of executive arrangements (including the fall-back provisions) and the accompanying statement are sent (in relation to England) to the Secretary of State or (in relation to Wales) to the National Assembly for Wales[6].

Such a referendum[7] may not be held on: (1) a Saturday or Sunday[8]; (2) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday[9]; or (3) any day appointed as a day of public thanksgiving or mourning[10].

1 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(3). The text refers to the circumstances where, in relation to England, the Secretary of State exercises the power conferred by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 25 or, in relation to Wales, the National Assembly for Wales exercises the power conferred by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 25 (see para 560 ante).

2 For the meaning of 'valid petition' see para 561 note 3 ante.

3 Ie, in relation to England, subject to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(2) (see the text and note 6 infra), reg 16(3) (see the text and note 1 supra) and reg 21 (as amended) (see para 574 post) and, in relation to Wales, subject to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(1A) (as added) (see note 5 infra), reg 16(2) (see the text and note 6 infra), reg 16(3) (see the text and note 1 supra) and reg 21 (see para 574 post).

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(1) (amended by SI 2001/1310); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(1) (amended by SI 2003/398).

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(1)(a) (amended by SI 2003/398). For the meaning of 'petition date' see para 565 note 11 ante. Provision is also made for a referendum as mentioned in the text to be held not later than the end of the period of two months beginning with the date on which regulations under the Local Government Act 2000 s 45 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 226) come into force, if this is later: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(1)(b). As to the regulations so made see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended); and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. As to the provisions that are so applied and modified see para 557 ante.

As to provision made in relation to England where, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 14(5) (see para 27 ante), the poll at a referendum is taken together with the poll at an election see the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(2A), (2B) (added by SI 2001/1310).

In relation to Wales, where an authority's petition period commences, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3A(5) (as added) (see para 562 ante), on the date that is 12 months before the earliest date on which that authority may hold a second (or subsequent) referendum and a valid petition is presented to that authority within that petition period, that authority must hold a referendum on the earliest date on which it may lawfully hold a second (or subsequent) referendum: reg 16(1A) (added by SI 2003/398). For the meaning of 'authority' see para 561 note 1 ante; and for the meaning of 'petition period' see para 562 note 19 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(2). The text refers to proposals sent, in relation to England, to the Secretary of State in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(9) and, in relation to Wales, to the National Assembly for Wales

in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(9) (see para 570 post).

7 Ie a referendum held following a petition under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) (in relation to England) and under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended) (in relation to Wales) (see para 561 et seq ante).

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(4)(a) (reg 16(4) added by SI 2001/1310); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(4)(a).

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(4)(b) (as added: see note 8 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(4)(b). The text refers to a bank holiday under the Banking and Financial Dealings Act 1971 in England or in Wales (as the case may be): see TIME vol 45(2) (Reissue) para 220.

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 16(4)(c) (as added: see note 8 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 16(4)(c).

570. Action taken before local authority referendum in consequence of a valid petition. Before the holding of a referendum following a petition[1], the authority[2] must: (1) where the petition does not specify, or is treated as not specifying, the form proposed for the authority's executive[3], decide which form the executive is to take[4] and decide the extent to which specified functions[5] are to be the responsibility of the executive[6]; or (2) where the petition specifies the form proposed for the authority's executive, decide the extent to which the specified functions are to be the responsibility of the executive[7]. Before holding such a referendum, the authority must also: (a) draw up proposals for the operation of executive arrangements[8]; and (b) draw up outline fall-back proposals[9]. Before drawing up proposals under head (a) or head (b) above, the authority must take reasonable steps to consult the local government electors[10] for, and other interested persons in, the authority's area[11].

The authority's proposals under head (a) above must include such details of the executive arrangements as the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may direct[12], a timetable with respect to the implementation of the proposals[13], and details of any transitional arrangements which are necessary for the implementation of the proposals[14]. In drawing up proposals under head (a) above, the authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness[15].

The authority's proposals under head (b) above, where the authority is not then operating executive arrangements or alternative arrangements[16], must include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State or the National Assembly for Wales (as the case may be) may direct[17], and a timetable with respect to the implementation of detailed fall-back proposals which are based on the outline fall-back proposals in the event that the proposals that are to be the subject of the referendum are rejected[18]; and the authority's proposals may include, as outline fall-back proposals, any proposals[19] approved by the Secretary of State or the National Assembly for Wales (as the case may be)[20]. Where the authority is then operating executive arrangements or alternative arrangements, the proposals under head (b) above are to consist of a summary of those arrangements[21].

Not later than two months before the date on which the referendum is to be held, the authority must send to the Secretary of State or the National Assembly for Wales (as the case may be) a copy of the proposals drawn up under heads (a) and (b) above[22] and a statement which describes the steps which the authority took to consult the local

government electors for, and other interested persons in, the authority's area and the outcome of that consultation and the extent to which that outcome is reflected in the proposals[23].

1 Ie a referendum following a petition under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) (in relation to England) and under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended) (in relation to Wales) (see para 561 et seq ante).

2 For the meaning of 'authority' see para 561 note 1 ante. The authority must comply with any directions given for these purposes by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(10); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(10). As to the Secretary of State see para 2 ante; and as to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

3 As to the proposed forms of executive for which a referendum is required see para 560 ante.

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(1)(a)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(1)(a)(i). The form of executive determined as mentioned in the text must include an elected mayor: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(2). For the meaning of 'elected mayor' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 227.

5 Ie the functions specified in regulations under the Local Government Act 2000 s 13(3)(b) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 308).

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(1)(a)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(1)(a)(ii).

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(1)(b).

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3)(a). As to executive arrangements see para 560 ante; and LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq.

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3)(b). For these purposes, 'outline fall-back proposals' means an outline of the proposals that a local authority intends to implement if proposals that are to be the subject of a referendum, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) (see para 561 et seq ante) or under Pt III (regs 18–22) (as amended) (see paras 572–575 post) are rejected in that referendum or if proposals that are to be the subject of a referendum, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended) (see para 561 et seq ante) or under Pt III (regs 18–22) (as amended) (see paras 572–575 post) are rejected in that referendum: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 2(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 2(1). As to fall-back proposals see also para 560 ante.

10 As to entitlement to vote as a local government elector see para 112 et seq ante. For the meaning of 'elector' see para 110 note 2 ante.

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(4). In drawing up proposals under head (a) or head (b) in the text, the authority must also have regard to any guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 209): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(8); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(8).

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(5)(a).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(5)(b).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(5)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(5)(c).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(6); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(6).

16 In relation to Wales, 'alternative arrangements' means arrangements specified in regulations made by the National Assembly for Wales under the Local Government Act 2000 s 32(1) (alternative arrangements: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 231): Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3. As to the operation of alternative arrangements see LOCAL GOVERNMENT vol 29(1) (Reissue) para 231 et seq.

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(i).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(ii).

19 Ie proposals under the Local Government Act 2000 s 28(1) (approval of outline fall-back proposals: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 308).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(iii).

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(b).

22 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(9)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(9)(a).

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(9)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(9)(b).

571. Restrictions relating to publicity for local authority referendums held in consequence of a valid petition. An authority[1] must not incur any expenditure for the purpose of: (1) publishing any material which, in whole or in part, appears designed to influence local government electors[2] in deciding whether or not to sign a petition requesting a local authority referendum[3]; (2) assisting any person to publish any such material[4]; or (3) influencing or assisting any person to influence, by any other means, local government electors in deciding whether or not to sign a petition requesting a local authority referendum[5]. However, these restrictions are not to be taken as preventing an authority from incurring expenditure on publishing or otherwise providing to any person (whether or not in pursuance of any duty to do so) any factual information so far as it is presented fairly[6].

1 For the meaning of 'authority' see para 561 note 1 ante.

2 As to registration as a local government elector see para 128 et seq ante.

3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(1)(a). The text refers to a petition under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended) (in relation to Wales) (see para 561 et seq ante).

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(1)(b).

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(1)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(1)(c).

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(2). In determining for these purposes whether any information is presented fairly, regard must be had to any guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 209): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 15(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 15(3).

(C) Direction to Local Authority requiring a Referendum to be Held

572. Circumstances in which central authority may require local authority referendum to be held. The Secretary of State[1] (in relation to England) or the National Assembly for Wales[2] (in relation to Wales) may by a direction in writing to the authority[3], require the authority to hold a referendum on whether it should operate executive arrangements[4] involving an executive which takes such permitted form[5] as may be specified in the direction[6]: (1) where it appears to the Secretary of State or to the Assembly (as the case may be) that specified circumstances have arisen[7]; (2) where he or it (as the case may be) has rejected an authority's application for approval of outline fall-back proposals[8]; (3) where it appears to him or to it (as the case may be) that a direction is necessary to further compliance with best value requirements[9]; (4) if an authority requests him or it (as the case may be) to do so[10]; or (5) if a petition organiser[11] requests him or it (as the case may be) to do so[12].

Where a direction is given pursuant to head (1) above, the Secretary of State or the Assembly (as the case may be) may specify in the direction[13]: (a) the form of executive to be included in proposals for the operation of executive arrangements[14]; (b) details (whether or not in the form of proposals that are to be the subject of the referendum) of the executive arrangements and their operation and any transitional arrangements necessary for the implementation of the proposals on which the referendum is to be held[15]; (c) a timetable with respect to the implementation of the proposals[16]; (d) the principles or matters to which the authority is to have regard in drawing up the proposals[17]; (e) except in a case where details in the form of proposals are specified pursuant to head (b) above, in relation to the consultation to be undertaken in drawing up those proposals, the persons with whom consultation is required, the manner of the consultation and the matters about which those persons are to be consulted[18]; (f) the outline fall-back proposals[19]; (g) details (whether or not in the form of proposals) of the detailed fall-back proposals that are to be implemented if the proposals that are to be the subject of the referendum are rejected[20].

1 As to the Secretary of State see para 2 ante.

2 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

3 For the meaning of 'authority' see para 561 note 1 ante.

4 As to the operation of executive arrangements see LOCAL GOVERNMENT vol 29(1) (Reissue) para 217 et seq.

5 Ie permitted by or under the Local Government Act 2000 s 11 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212 et seq).

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1).

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(a). The text refers to the circumstances that are mentioned in any of the provisions of the Local Authorities (Referendums) (Petitions and Directions) (England)

Regulations 2000, SI 2000/2852, reg 18(1)(a), Sch 2 Pt I paras 1–6 (as amended) (in relation to England) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(a), Sch 2 Pt I paras 1–6 (in relation to Wales).

Where a form of executive involving an elected mayor is specified in a petition in consequence of which proposals are drawn up under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3) (in relation to England) (see para 570 ante) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3) (in relation to Wales) (see para 570 ante), a direction given pursuant to head (1) in the text in respect of those proposals does not require the authority to hold a referendum on proposals involving any other form of executive: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(4).

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(b). The text refers to proposals rejected under the Local Government Act 2000 s 28 (approval of outline fall-back proposals: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 308). For the meaning of 'outline fall-back proposals' see para 570 note 9 ante.

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(c). The text refers to further compliance with the requirements of the Local Government Act 1999 Pt I (ss 1–29) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 635 et seq).

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(d).

11 For the meaning of 'petition organiser' see para 563 note 6 ante.

12 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1)(e). Where a form of executive involving an elected mayor is specified in a petition, a direction given in response to the request of the person who is the petition organiser in relation to that petition does not require the authority to hold a referendum on proposals involving any other form of executive: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(3).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(a). The text refers to proposals drawn up, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(c) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(c) (see para 573 post).

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(b).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(c).

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(d).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(e).

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(f); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(f).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(g); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(g).

573. Action following receipt of direction to hold local authority referendum. On receipt of a direction to hold a local authority referendum[1] from the Secretary of State[2] (in relation to England) or the National Assembly for Wales[3] (in relation to Wales) in which a relevant matter is specified[4], the authority[5] to which the direction is given must immediately[6]: (1) abandon any arrangements made for the holding of a referendum, whether in consequence of a petition[7] or an earlier direction by the Secretary of State or by the Assembly (as the case may be), to the extent that those arrangements are inconsistent with the arrangements necessary to conduct the referendum required by the direction[8]; (2) abandon all action in respect of any petition received on or before the day on which it receives the direction[9]; (3) draw up[10] proposals for the operation of executive arrangements[11]; (4) draw up[12] outline fall-back proposals[13]; and (5) make arrangements for the holding of a referendum on the proposals drawn up in accordance with head (3) above, to the extent required to supplement any arrangements that may continue by virtue of head (1) above[14].

Where, on the day on which the direction is received, the authority is in possession of the first petition submitted[15] to it[16] and has not complied with the requirement as to validity[17] in relation to it[18], the authority must satisfy itself as to the validity of the petition[19] and, subject to head (b) below, the direction is of no further effect[20]. Where, in a case to which these circumstances apply: (a) the authority is satisfied that the petition is valid, it must publicise the petition in accordance with the requirements as to valid petitions[21] and the direction[22] must be treated as revoked with effect from the date on which the required notice is so given[23]; (b) the authority is satisfied that the petition is invalid, it must publicise the petition in accordance with the requirements as to invalid petitions[24] and the direction[25] must be treated as effective from the date on which the required notice is so given[26]. On receipt of a direction[27] in which either the outline fall-back proposals[28] or the detailed fall-back proposals[29] are specified, the authority to which the direction is given must immediately take the steps necessary to give effect to the direction[30].

Where the authority to which a direction[31] has been given receives a petition submitted[32] to it[33], the petition is received before it has given notice of the date on which the referendum is to be held pursuant to the direction[34], the petition proposes a constitutional change[35] different from that in relation to which the direction requires a referendum to be held[36] and the proper officer determines[37] that the petition is a valid petition[38], the direction must be treated as revoked with effect from the date of the proper officer's determination[39]. In such a case, the authority must notify the Secretary of State or the National Assembly for Wales (as the case may be) and the petition organiser[40] of the date of the proper officer's determination[41].

In drawing up proposals for the operation of executive arrangements under head (3) above, the authority must: (i) where the direction specifies details, a form of executive or a timetable, include those details, that form of executive or that timetable[42]; (ii) where the direction requires regard to be had to principles or matters, have regard to those principles or matters[43]; (iii) where the direction requires consultation with specified persons, or in a specified manner or about specified matters, consult those persons, in that manner or about those matters, as the case may be[44]; (iv) consider the extent to which its proposals, if implemented, are likely to assist in securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness[45]; (v) subject to heads (i) to (iv) above, decide which form the executive is to take[46], decide the extent to which the specified functions[47] are to be the responsibility of the executive[48] and take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area[49].

The authority's outline fall-back proposals under head (4) above, where the authority is not then operating executive arrangements or alternative arrangements: (A) may not be drawn up before the authority has taken reasonable steps to consult the local government electors for, and other interested persons in, its area[50]; (B) must include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State or the National Assembly for Wales (as the case may be) may direct[51]; (C) must include a timetable with respect to the implementation of the detailed fall-back proposals in the event that the proposals that are to be the subject of the referendum are rejected[52]; and (D) may include, as the authority's outline fall-back proposals, any proposals approved[53] by the Secretary of State or the National Assembly for Wales (as the case may be)[54]. Where the authority is then operating executive arrangements or alternative arrangements, the authority's outline fall-back proposals under head (4) above are to consist of a summary of those arrangements[55].

In drawing-up proposals under either head (3) or head (4) above, an authority must comply with any directions given by the Secretary of State or by the National Assembly for Wales (as the case may be)[56] and must have regard to any guidance for the time being issued by the Secretary of State or by the National Assembly for Wales (as the case may be)[57].

Not later than two months before the date on which the referendum is to be held, the authority must send to the Secretary of State or to the National Assembly for Wales (as the case may be) a copy of the proposals drawn up under heads (3) and (4) above[58] and a statement which describes the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area and the outcome of that consultation and the extent to which that outcome is reflected in the proposals[59].

1 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18 and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18 (see para 572 ante).

2 As to the Secretary of State see para 2 ante.

3 As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 Ie a matter referred to in any of the provisions of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(a)–(e) (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(a)–(e) (in relation to Wales) (see para 572 ante).

5 For the meaning of 'authority' see para 561 note 1 ante.

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1).

7 As to referendums held in consequence of a petition see para 561 et seq ante.

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(a).

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(b).

10 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1), (2), (4) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1), (2), (4) (see the text and notes 42–49, 56–57 infra).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(c).

12 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3), (4) or, in relation to Wales, in

accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3), (4) (see the text and notes 50–57 infra).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(d). For the meaning of 'outline fall-back proposals' see para 570 note 9 ante.

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(1)(e); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(1)(e).

15 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) (see para 561 et seq ante), and including the single petition resulting from an amalgamation of petitions in accordance with reg 8(1) (see para 564 ante); or, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended) (see para 561 et seq ante), and including the single petition resulting from an amalgamation of petitions in accordance with reg 8(1) (see para 564 ante).

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(2)(a).

17 Ie, in relation to England, compliance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 11(2) or, in relation to Wales, compliance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 11(2) (see para 566 ante).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(2)(b).

19 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (as amended) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (as amended) (see para 561 et seq ante).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(2).

21 Ie the authority must comply, in relation to England, with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13 or, in relation to Wales, with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13 (see para 568 ante).

22 See note 1 supra.

23 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(3)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(3)(a). The text refers to the notice given, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1) or, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1) (see para 568 ante).

24 Ie the authority must comply, in relation to England, with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14 or, in relation to Wales, with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14 (see para 568 ante).

25 See note 1 supra.

26 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(3)(b). The text refers to the notice given, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 14(1) or, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 14(1) (see para 568 ante).

27 See note 1 supra.

28 Ie a matter specified, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(f) or, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(f) (see para 572 ante).

29 Ie a matter specified, in relation to England, in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(2)(g) or, in relation to Wales, in the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(2)(g) (see para 572 ante).

30 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(4).

31 See note 1 supra.

32 See note 15 supra.

33 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5)(a).

34 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5)(b).

35 For the meaning of 'constitutional change' see para 563 note 10 ante.

36 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5)(c).

37 Ie, in relation to England, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (as amended) or, in relation to Wales, in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (as amended) (see para 561 et seq ante). For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 3; and, in relation to Wales, by virtue of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 3).

38 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5)(d). For the meaning of 'valid petition' see para 561 note 3 ante.

39 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(5); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(5).

40 For the meaning of 'petition organiser' see para 563 note 6 ante.

41 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 19(6); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 19(6). The authority must include the notification referred to in the text in the notice required, in relation to England, by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 13(1) or, in relation to Wales, by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 13(1) (see para 568 ante).

42 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(a). Without prejudice to head (i) in the text, proposals under head (3) in the text must include such details of the executive arrangements as the Secretary of State or the National Assembly for Wales (as the case may be) may direct, a timetable with respect to the implementation of the proposals and details of any transitional arrangements which are necessary for the implementation of the proposals: Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(2).

43 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(b).

44 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(c).

45 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(d); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(d).

46 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(e)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(e)(i).

47 Ie the functions specified in regulations under the Local Government Act 2000 s 13(3)(b) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 308).

48 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(e)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(e)(ii).

49 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(1)(e)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(1)(e)(iii).

50 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(a)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(a)(i).

51 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(a)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(a)(ii).

52 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(a)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(a)(iii).

53 Ie under the Local Government Act 2000 s 28(1) (approval of outline fall-back proposals: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 308).

54 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(a)(iv); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(a)(iv).

55 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(3)(b).

56 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(4)(a).

57 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(4)(b). The text refers to guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 209).

58 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(5)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(5)(a).

59 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(5)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(5)(b).

574. Time for holding referendum required by direction. Except where the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) holds a referendum in exercise of the default power[1], a referendum required by a direction[2] must be held[3] not later than the end of the period of six months beginning with the date of the direction or the date that is treated[4] as the date of the direction[5]; and a referendum must not be held before the end of the period of two months beginning with the date on which proposals are sent[6] to the Secretary of State (in relation to England) or to the Assembly (in relation to Wales)[7]. Where the Secretary of State (in relation to England) or the Assembly (in relation to Wales), in exercise of the default power[8], draws up outline fall-back proposals or proposals for the operation of executive arrangements[9] and directs an authority to hold a referendum on those proposals[10], the authority must hold the referendum not later than the end of the period of two months beginning with the date of the direction[11].

Such a referendum[12] may not be held on: (1) a Saturday or Sunday[13]; (2) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday[14]; or (3) any day appointed as a day of public thanksgiving or mourning[15].

1 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(4). The text refers to the circumstances where the Secretary of State exercises the power conferred by the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 25 (in relation to England) or the National Assembly for Wales exercises the power conferred by the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 25 (in relation to Wales) (see para 560 ante).

2 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18 and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18 (see para 572 ante).

3 Ie, in relation to England, subject to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2)–(4) (as amended) and, in relation to Wales, subject to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(2)–(4) (see the text and notes 1 supra, 6–7, 12–15 infra).

4 Ie in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 7(6) (in relation to England) or in accordance with the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 7(6) (in relation to Wales) (see para 563 ante), in a case to which that provision applies.

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(1). As to provision made in relation to England where, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 14(5) (see para 27 ante), the poll at a referendum is taken together with the poll at an election see the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2A), (2B) (added by SI 2001/1310).

6 Ie in accordance with the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 20(5) (in relation to England) or the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 20(5) (in relation to Wales) (see para 573 ante).

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(2).

8 See note 1 supra.

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(5)(a). For the meaning of 'outline fall-back proposals' see para 570 note 9 ante.

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(5)(b).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(4); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(5).

12 Ie under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt III (regs 18–22) (as amended) (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt III (regs 18–22) (as amended) (in relation to Wales) (see para 572 et seq ante).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2C)(a) (reg 21(2C) added by SI 2001/1310); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(3)(a).

14 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2C)(b) (as added: see note 13 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(3)(b). The text refers to a bank holiday under the Banking and Financial Dealings Act 1971 in England or in Wales (as the case may be): see TIME vol 45(2) (Reissue) para 220.

15 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 21(2C)(c) (as added: see note 13 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 21(3)(c).

575. Publicity for local authority referendum required to be held by direction. The authority[1] to which a direction requiring a referendum to be held is given[2] must, not later than one month after the date of the direction, publish in at least one newspaper circulating in its area a notice which[3]: (1) sets out the terms of the direction[4]; and (2) contains a statement[5]: (a) that a direction in the terms set out in the notice has been given by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) requiring a referendum to be held[6]; (b) of the form of executive to be included in the proposals that are to be the subject of the referendum[7]; and (c) that a referendum is to be held[8]. An authority may include in

the notice to be so published, or may otherwise provide to any person (whether or not in pursuance of any duty to do so), any other factual information relating to the direction so far as it is presented fairly[9].

1 For the meaning of 'authority' see para 561 note 1 ante.
2 Ie under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18 (in relation to England) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18 (in relation to Wales) (see para 572 ante).
3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1).
4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(a).
5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(b).
6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(b)(i); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(b)(i).
7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(b)(ii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(b)(ii). As to the forms of executive that may be proposed see para 560 ante.
8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(1)(b)(iii); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(1)(b)(iii).
9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(2); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(2). In determining for these purposes whether any information is presented fairly, regard must be had to any guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 209): Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 22(3); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 22(3).

(D) Campaign to promote a Particular Result in a Local Authority Referendum

(a) Notices etc of Local Authority Referendum

576. Public notice of local authority referendum and proposals. The proper officer[1] must, as soon as reasonably practicable after the proposals date[2], publish in at least one newspaper circulating in the area of the local authority[3] a notice which contains[4]:

(1) a statement that relevant proposals have been sent to the Secretary of State[5] (in relation to England) or to the National Assembly for Wales[6] (in relation to Wales)[7];
(2) a description of the main features of the proposals and of the outline fall-back proposals[8];
(3) a statement[9]:
  (a) that a referendum is to be held[10];
  (b) of the date on which the referendum will be held[11];
  (c) of the question to be asked in the referendum[12];
  (d) where the local authority has made a determination to such an effect[13], that the votes in the referendum may be cast only by postal ballot[14];
  (e) where no such determination has been made, that, save for extended hours

of polling, the referendum is to be conducted in accordance with procedures similar to those used at local government elections[15];

(f) of the referendum expenses limit[16] that will apply in relation to the referendum, and of the number of local government electors by reference to which that limit has been calculated[17];

(g) of the address and times at which a copy of the proposals, and of the local authority's outline fall-back proposals, may be inspected[18]; and

(h) of the procedures for obtaining a copy of the proposals and outline fall-back proposals[19].

Unless the notice that is required to be published in this way (the 'first notice') is published less than 56 days before the date of the referendum, the proper officer must publish a second notice containing the particulars which were specified for inclusion in the statement contained in the first notice[20]. The second notice must be published in the same newspaper or newspapers as were used for the publication of the first notice[21], and not more than 55 days before the date of the referendum and not less than 28 days before that date[22].

The authority must make available for inspection throughout the referendum period[23], at the address and times stated in the notice, and free of charge, a copy of the proposals and outline fall-back proposals; and it must secure that sufficient copies are available for persons who wish to obtain copies[24]. The authority may also provide (whether or not in pursuance of any duty to do so) any other factual information relating to the proposals, the outline fall-back proposals and the referendum so far as it is presented fairly[25].

1 For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)).

2 In relation to England, and in relation to a referendum other than a further referendum, 'proposals date' means the date on which proposals are sent to the Secretary of State under the Local Government Act 2000 s 25 (proposals involving a form of executive for which a referendum is required: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 220) or under regulations under s 30 (different executive arrangements: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 219) or s 33 (alternative arrangements: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 233) or under an order under s 36 (referendum following order: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 225) or under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17 (action before referendum: see para 570 ante) or reg 19 (action on receipt of direction: see para 573 ante); and, in relation to a further referendum, 'proposals date' means the day which falls two months before the day on which the further referendum is held: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1). In relation to Wales, and in relation to a referendum other than a further referendum, 'proposals date' means the date on which proposals are sent to the National Assembly for Wales under the Local Government Act 2000 s 36 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 225) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17 (see para 570 ante) or reg 19 (see para 573 ante); and, in relation to a further referendum, 'proposals date' means the day which falls two months before the day on which the further referendum is held: Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). As to the Secretary of State see para 2 ante; and as to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

For these purposes, 'referendum' means a referendum held under the Local Government Act 2000 s 27 (referendum in case of proposals involving elected mayor: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222) or by virtue of regulations or an order made under any provision of Pt II (ss 10–48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq); and 'further referendum' means a referendum held in pursuance of an order under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(3) or the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(3) (procedures subsequent to referendum petitions: see para 864 post): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). 'Elected mayor', in relation to a local

authority, means an individual elected as mayor of the local authority by the local government electors for the local authority's area in accordance with provisions made by or under the Local Government Act 2000 Pt II (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

3 Ie, in relation to England, a local authority in England (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 1(2)) and, in relation to Wales, a local authority in Wales (Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 1(2)).

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1).

In relation to England only, the proper officer of an authority must, by notice in writing and at least 14 days before he publishes a notice in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1), advise, if he is the proper officer of a county council, the proper officer of the council of each district comprised in the county or, if he is the proper officer of the council of a district comprised in an area for which there is a county council, the proper officer of the council of the county in which the district lies and each of the other district councils in that county, that he intends to publish such a notice and of the date of the referendum to be held in his area: reg 4(2). It is then the duty of each proper officer to whom notice has been given under reg 4(2), and whose council is considering the holding of a referendum in its area, to consider whether it would be reasonably practicable to combine that referendum with the one of which such notice has been given; and each such officer must reply to the notice within seven days of its receipt, indicating whether his authority wishes to combine its referendum with that to which the notice under reg 4(2) refers: reg 4(3).

5 Ie, in relation to England, proposals sent to the Secretary of State under the Local Government Act 2000 s 25, involving a form of executive for which a referendum is required (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 220), or proposals under regulations under s 30 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 219) or s 33 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 233) or proposals under an order under s 36 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 225) or proposals under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3) (see para 570 ante) or reg 19(1) (see para 573 ante): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(a).

6 Ie, in relation to Wales, proposals sent to the National Assembly for Wales under an order under the Local Government Act 2000 s 36 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 225) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3) (see para 570 ante) or reg 19(1) (see para 573 ante): Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(a).

7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(a).

8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(b).

For these purposes, in relation to England, 'outline fall-back proposals': (1) in relation to proposals under the Local Government Act 2000 s 25 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 220), means an outline of the proposals that a local authority intends to implement if its proposals under s 25 are rejected in a referendum; (2) in relation to proposals under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17 (see para 570 ante) or reg 19 (see para 573 ante), means an outline of the proposals that a local authority intends to implement if proposals that are to be the subject of a referendum under Pt II (regs 3–17) (as amended) (see para 561 et seq ante) or under Pt III (regs 18–22) (as amended) (see para 572 et seq ante) are rejected in that referendum; (3) in relation to proposals under an order under the Local Government Act 2000 s 36 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 225), means, if the authority is then operating executive or alternative arrangements, a summary of those arrangements and, in any other case, an outline of the proposals that the authority intends to implement if proposals that are to be the subject of a referendum are rejected in that referendum; (4) in relation to proposals under regulations under s 30 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 219) or s 33 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 233), means a summary of the authority's existing executive arrangements or existing alternative arrangements, as the case may be: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1).

For these purposes, in relation to Wales, 'outline fall-back proposals': (a) in relation to proposals under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17 (see para 570 ante) or reg 19 (see para 573 ante), means an outline of the proposals that a local authority intends to implement if proposals that are to be the subject of a referendum under Pt II (regs 3–17) (as amended) (see para 561 et seq ante) or under Pt III (regs 18–22) (as amended) (see para 572 et seq ante) are rejected in that referendum; and (b) in relation to proposals under an order under the Local

Government Act 2000 s 36 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 225), means, if the local authority is then operating executive or alternative arrangements, a summary of those arrangements and, in any other case, an outline of the proposals specified in the order that the local authority is to implement if proposals that are to be the subject of a referendum are rejected in that referendum: Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 2(1).

9 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c). As to the additional requirements that such a statement needs to meet, in relation to England, where the poll at a referendum is combined with the poll at another election or referendum (see para 27 ante) see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(iii), (x).

10 Ibid reg 4(1)(c)(i); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(i).

11 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(ii); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(ii). As to the date of a local authority referendum see para 578 post.

12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(iv); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(iii). As to the form of the question to be asked at a local authority referendum see para 577 post.

13 Ie, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1) and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1) (see para 595 post).

14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(v); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(iv). As to all-postal voting see para 595 et seq post.

15 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(vi); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(v). For the meaning of 'local government election' see para 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)).

16 Ie as defined, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1) (see para 580 post).

17 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(vii); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(vi).

18 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(viii); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(vii).

19 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(ix); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(viii).

20 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(2). In relation to England, the text refers to the particulars specified in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(1)(c)(i)–(ix) and, if reg 4(1)(c)(x) applies (whether or not it applied in relation to the first notice), the particulars specified therein; and, in relation to Wales, the particulars referred to in the text are those specified in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(1)(c)(i)–(viii) (see the text and notes 10–19 supra).

21 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(3)(a).

22 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(5)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(3)(b).

23 For these purposes, 'referendum period', in relation to a referendum (including a further referendum), means the period beginning with the proposals date and ending on the date of the referendum: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

24 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(4).

25 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(5). In determining for these purposes whether any information is presented fairly, regard must be had, in accordance with the Local Government Act 2000 s 38 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 209), to any

guidance for the time being issued by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales) under the Local Government Act 2000 s 38: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 4(8); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 4(6).

577. The question to be asked at a local authority referendum. The question to be asked in a local authority referendum must be in the prescribed form, which differs according to whether the proposals in relation to which a referendum is to be held involve a mayor and cabinet executive[1], a mayor and council manager executive[2], or a leader and cabinet executive[3].

1 See the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 3, Sch 1 Pt I para 1 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 3, Sch 1 Pt I para 1. For the meaning of 'mayor and cabinet executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.

2 See the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 2 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 2. For the meaning of 'mayor and council manager executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.

3 See the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 3 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 3. For the meaning of 'leader and cabinet executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.

578. Notice of date etc of local authority referendum. Not later than the twenty-fifth day before the day of the referendum[1], the counting officer[2] must publish notice of the referendum, stating the date of the poll[3]. Such notice must also state the date by which applications to vote by post or by proxy and other applications and notices about postal or proxy voting must reach the registration office in order that they may be effective for the referendum[4].

1 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 1 (applied and modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 3). In calculating any period for the purposes of any provision of the LGA Referendum Rules, a Saturday or Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in England or Wales, and any day appointed as a day of public thanksgiving or mourning, must be disregarded: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 22; Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 18. For the meaning of 'LGA Referendum Rules' see para 557 note 4 ante. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq post), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 rr 1, 3 (as applied and modified) are further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

2 As to the appointment of the counting officer see para 591 post.

3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 3(1) (as applied and modified: see note 1 supra).

4 Ibid Sch 2 r 3(2) (as applied and modified: see note 1 supra).

(b) Referendum Expenses

579. Definition of 'referendum expenses' for purposes of local authority referendum. In relation to a local authority referendum[1], 'referendum expenses' means expenses incurred by or on behalf of any individual or body during the

referendum period[2] which are expenses incurred for referendum purposes[3] in respect of any of the matters set out in the following list[4]:

(1) advertising of any nature (whatever the medium used), including agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it[5];

(2) unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area or areas), including design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage)[6];

(3) any published promotional material or other document providing information about the referendum or the issues or arguments[7];

(4) market research or canvassing conducted for the purpose of ascertaining polling intentions[8];

(5) the provision of any services or facilities in connection with press conferences or other dealings with the media[9];

(6) the transport (by any means) of persons to any place or places with a view to obtaining publicity in connection with a referendum campaign, including the costs of hiring a particular means of transport for the whole or part of the referendum period[10];

(7) rallies and other events, including public meetings organised so as to obtain publicity in connection with a referendum campaign or for other purposes connected with a referendum campaign, including costs incurred in connection with the attendance of persons at such events, the hire of premises for the purposes of such events or the provision of goods, services or facilities at them[11].

Nothing in heads (1) to (7) above is to be taken as extending to any expenses:

(a) in respect of any property, services or facilities so far as those expenses fall to be met out of public funds[12];

(b) incurred in respect of the remuneration or allowances payable to any member of the staff of the campaign organiser[13]; or

(c) incurred in respect of an individual by way of travelling expenses (by any means of transport) or in providing for his accommodation or other personal needs to the extent that the expenses are paid by the individual from his own resources and are not reimbursed to him[14].

Where property, services or facilities is or are provided for the use or benefit of any person, either free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the services or facilities[15], and the property, services or facilities is or are made use of by or on behalf of that person in circumstances such that, if any expenses were to be (or are) actually incurred by him or on his behalf in respect of that use, they would be (or are) referendum expenses actually incurred by him or on his behalf[16], an amount of referendum expenses (the 'appropriate amount') is treated, for the purposes of the statutory provisions which govern the control of referendum expenses, as incurred by that person during the period for which the property, services or facilities is or are made so use of, unless that amount is not more than £200[17]. For these purposes, the appropriate amount is determined as being such proportion of either the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge)[18] or the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the individual or body in respect of the use of the property or the provision of the services or facilities (where the

property, services or facilities is or are provided at a discount)[19], as is reasonably attributable to the use made of the property, services or facilities[20]. However, no amount of referendum expenses is to be regarded as so incurred in respect of the provision by any individual of his own services which he provides voluntarily in his own time and free of charge[21].

1 For the meaning of 'referendum' see para 576 note 2 ante.
2 For the meaning of 'referendum period' see para 576 note 23 ante.
3 'For referendum purposes' means in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to any question asked in the referendum, or otherwise in connection with promoting or procuring any such outcome; and 'referendum campaign' means a campaign conducted with a view to promoting or procuring a particular outcome in relation to the question to be asked in a referendum: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1). As to the form of the question to be asked at a local authority referendum see para 577 ante.
4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1). The text refers to the matters set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1), Sch 2 para 1, as read with Sch 2 para 2 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1), Sch 2 para 1, as read with Sch 2 para 2 (see heads (1)–(7) and (a)–(c) in the text).
5 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(a).
6 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(b).
7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(c). The text refers to material of a description referred to, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(1) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(1) (restriction on publication etc of promotional materials: see para 581 post).
8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(d); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(d).
9 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(e); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(e).
10 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(f); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(f).
11 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 1(g); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 1(g).
12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 2(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 2(a).
13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 2(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 2(b). For these purposes, 'campaign organiser' means the individual or body by whom, or on whose behalf, referendum expenses are incurred (including expenses treated as incurred) in connection with a referendum campaign: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1).
14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 2 para 2(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 2 para 2(c).
15 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(1)(a). Where the services of an employee are made available by his employer for the use or benefit of a person, the

amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by his employer in respect of the period for which his services are so made available (but do not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(4).

16 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(1)(b).

17 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(2).

18 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(3)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(3)(a).

19 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(3)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(3)(b).

20 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(3).

21 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7(5); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7(5).

580. General restriction on local authority referendum expenses. The total referendum expenses[1] incurred or treated as incurred[2] by or on behalf of any individual or body must not exceed the referendum expenses limit[3], which is defined as the aggregate of £2,000 and such amount as is found by multiplying by five pence the number of entries in the relevant register[4].

Where any referendum expenses are incurred in excess of the referendum expenses limit, a person who knew or reasonably ought to have known that that limit would be exceeded, or who, without reasonable excuse, authorises another person to exceed that limit, is guilty of an offence[5].

1 For the meaning of 'referendum expenses' for these purposes see para 579 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Ie in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 7 in relation to England or the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 7 in relation to Wales (see para 579 ante).

3 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(2). However, this provision does not affect the right of any creditor who, when the expense was incurred, was ignorant of that expense being in contravention of the restriction on referendum expenses: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(7).

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1). For these purposes, the 'relevant register' means the register (or registers) of local government electors published under the Representation of the People Act 1983 s 13 (as substituted) (publication of registers: see para 164 ante) after the conclusion of the canvass conducted under s 10 (as substituted and amended) (maintenance of registers (annual canvass): see para 163 ante) in the year immediately preceding that in which the referendum is held, which has (or have) effect in the area of the local authority by which, or as regards which, the referendum is held (whether or not the persons to whom those entries relate are entitled to vote in the referendum): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(1).

5 See the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(3)–(6); the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(3)–(6); and para 754 post.

(c) Publicity

581. Restriction on publication etc of promotional material regarding local authority referendum. No material which: (1) provides general information about the local authority referendum[1]; (2) deals with any of the issues raised by the question[2]

to be asked in the referendum[3]; or (3) puts any arguments for or against a particular answer to that question[4], is to be published[5] by or on behalf of a local authority[6] during the period of 28 days ending with the date of the poll at the referendum[7]. However, this restriction on publication does not apply to: (a) material made available to persons in response to specific requests for information or to persons specifically seeking access to it[8]; (b) the publication of information relating to the holding of the poll at the referendum[9]; or (c) the publication of press notices containing factual information where the sole purpose of publication is to refute or correct any inaccuracy in material published by a person other than the local authority[10].

1 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(1)(a). For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to the form of the question to be asked at a local authority referendum see para 577 ante.
3 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(1)(b).
4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(1)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(1)(c).
5 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means including, in particular, by inclusion in any programme included in a programme service within the meaning of the Broadcasting Act 1990 (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 328); and 'publication' is to be construed accordingly: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(4).
6 As to references to the authority see para 576 note 3 ante.
7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(2).
8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(3)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(3)(a).
9 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(3)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(3)(b).
10 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 5(3)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 5(3)(c).

582. Control of advertisements relating specifically to a local authority referendum. In general, the consent of the local planning authority or of the Secretary of State must be obtained before any advertisement may be displayed[1]. However, the display on any site in a voting area[2] of an advertisement[3] relating specifically to a local authority referendum does not require[4] either express consent or deemed consent[5] provided that the advertisement is removed within 14 days after the close of the poll in the referendum to which it relates[6].

1 See the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666; and TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) para 769 et seq.
2 For these purposes, 'voting area' means the area in which a referendum is held: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 For the meaning of 'advertisement' see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) para 770.
4 Ie provided that it complies with any conditions and limitations specified in the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666, reg 3(2), Sch 2 (as amended, applied and modified) (see the text and notes 5–6 infra) and all the standard conditions. As to the standard conditions see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) para 775.
5 For the meanings of 'express consent' and 'deemed consent' see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) para 777.
6 See the Town and Country Planning (Control of Advertisements) Regulations 1992, SI 1992/666, Sch 2 Class F para 1 (as amended; and applied and modified by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 23; and the Local Authorities (Conduct

of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 19); and see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) para 784. As to the computation of time for these purposes see para 578 note 1 ante.

583. Broadcasting from outside United Kingdom with intent to influence local authority referendum. No person may, with intent to influence persons to give or refrain from giving their votes at a local authority referendum[1], include, or aid, abet, counsel or procure the inclusion of, any matter relating to the referendum in any programmes service[2] provided from a place outside the United Kingdom[3] otherwise than in pursuance of arrangements made with[4]: (1) the British Broadcasting Corporation[5]; (2) Sianel Pedwar Cymru[6]; or (3) the holder of any licence granted by the Office of Communications ('OFCOM')[7], for the reception and re-transmission of that matter by that body or the holder of that licence[8]. A contravention of this prohibition is an offence and an illegal practice[9].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 Ie within the meaning of the Broadcasting Act 1990 (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 328).
3 For the meaning of 'United Kingdom' see para 13 note 1 ante.
4 Representation of the People Act 1983 s 92(1) (substituted by the Broadcasting Act 1990 s 203(1), Sch 20 para 35(3), (5); and applied and modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the provisions that are so applied and modified see para 557 ante.
5 Representation of the People Act 1983 s 92(1)(a) (as substituted, applied and modified: see note 4 supra). As to the BBC see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 306 et seq.
6 Ibid s 92(1)(b) (as substituted, applied and modified: see note 4 supra). As to Sianel Pedwar Cymru see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 396.
7 Ibid s 92(1)(c) (as substituted (see note 4 supra); amended by the Communications Act 2003 s 406(1), Sch 17 para 61; and applied and modified (see note 4 supra)). As to OFCOM see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 2 et seq; and as to licences granted by OFCOM see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (2005 Reissue) para 447 et seq.
8 Representation of the People Act 1983 s 92(1) (as substituted, applied and modified: see note 4 supra).
9 See ibid s 92(2) (as applied and modified); and para 704 post. As to the punishment of illegal practices see para 886 post; as to the incapacities which may be imposed see para 899 et seq post; and as to the court's general power to mitigate or remit incapacities see para 907 post.

(d) Public Meetings

584. Rooms for public meetings promoting a particular result in the local authority referendum. Any person is entitled, for the purpose of holding a public meeting to promote a particular result in the local authority referendum[1], to use free of charge at reasonable times during the campaign period[2] any meeting room[3] situated in the voting area[4], the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable[5]. For the purposes of determining rateable occupation, a hereditament[6] is to be treated as unoccupied if it would otherwise be treated as occupied by reason only of the use of it for the holding of public meetings promoting a particular result in the referendum[7].

The person by whom, or on whose behalf, a public meeting is convened in a meeting room in pursuance of this right may be required to defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting[8]. That person must also defray the cost of repairing any damage done to the room or to the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises[9]. A person is not entitled to exercise this right to use meeting

rooms for public meetings except on reasonable notice[10]; and the provisions entitling him to use such rooms do not authorise any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose[11].

The lists maintained in England by a county council, district council or London borough council, and in Wales by a county council or county borough council, of meeting rooms which candidates at a parliamentary election in any constituency are entitled to use[12] have effect for the purposes of the referendum[13]; and any person is entitled, before the referendum, at all reasonable hours to inspect those lists or a copy of them[14].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 For these purposes, the 'campaign period' means the period of 25 days ending with the day before the date of the referendum: Representation of the People Act 1983 s 96(1A) (added in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). Where the day or last day on which anything is required or permitted to be done by or in pursuance of the Representation of the People Act 1983 Pt II (ss 67–119) (as amended, applied and modified) is a Saturday or Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning (s 119(1), (2) (s 119(2) substituted by the Representation of the People Act 1985 s 19(4); and the Representation of the People Act 1983 s 119 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2)): (1) the requirement or permission is deemed to relate to the first day thereafter which is not one of those days (Representation of the People Act 1983 s 119(1)(a) (as so applied and modified)); (2) in computing any period of not more than seven days for the purposes of Pt II (as amended), any of the days so mentioned must be disregarded (s 119(1)(b) (as so applied and modified)); and (3) in computing any period referred to in s 96(1A) (as added, applied and modified) or s 97(2A) (as added, applied and modified) (see para 585 post) any of the days so mentioned must be disregarded (s 119(1)(c) (as so applied and modified)). For these purposes, 'bank holiday', in relation to any election, means a day which is a bank holiday in the part of the United Kingdom in which the constituency or, as the case may be, electoral area is situated: s 119(3) (substituted by the Representation of the People Act 1985 s 19(4); and as so applied and modified).

3 Representation of the People Act 1983 s 96(1) (substituted in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

4 For the meaning of 'voting area' see para 582 note 2 ante.

5 Representation of the People Act 1983 s 96(3)(a) (s 96(3), (4) applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the provisions that are so applied and modified see para 557 ante.

6 For the meaning of 'hereditament' in this context see RATING AND COUNCIL TAX vol 39(1) (Reissue) para 634 et seq.

7 See the Local Government Finance Act 1988 s 65(6) (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 24; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 20); and see RATING AND COUNCIL TAX vol 39(1) (Reissue) para 614.

8 Representation of the People Act 1983 s 95(4)(a) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 37(b)). For these purposes, the provisions of the Representation of the People Act 1983 s 95(4), (5), (7) (as amended) are applied and modified by s 96(4) (as applied and modified: see note 5 supra). For the meaning of 'room' for these purposes see para 339 note 8 ante; and for the meaning of 'meeting room' for these purposes see para 339 note 15 ante (definitions applied by virtue of s 96(4) (as so applied and modified)).

9 Ibid s 95(4)(b) (as applied and modified: see note 8 supra).

10 Ibid s 95(5) (as applied and modified: see note 8 supra).

11 Ibid s 95(5) (as applied and modified: see note 8 supra).

12 As to the lists so maintained see para 341 ante.

13 Representation of the People Act 1983 s 96(5) (added in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).
14 Representation of the People Act 1983 s 96(5) (as added: see note 13 supra).

585. Disturbances at local authority referendum meetings. Any person who at a meeting in connection with a local authority referendum[1] held during the campaign period[2] acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of an illegal practice[3].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For these purposes, the 'campaign period' means the period of 25 days ending with the day before the date of the referendum: Representation of the People Act 1983 s 97(2A) (added in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the computation of time in relation to the conduct of a local authority referendum see para 584 note 2 ante.
3 See the Representation of the People Act 1983 s 97(1), (2) (s 97(1) applied, and s 97(2) substituted, in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2); and para 682 post. As to the punishment and consequences of illegal practices see para 886 et seq post.

B. POLLS CONSEQUENT ON PARISH OR COMMUNITY MEETINGS

586. How polls consequent on a parish or community meeting come about. A poll may be demanded before the conclusion of a parish or community meeting[1] on any question arising at the meeting[2]. However, no poll may be taken unless either the person presiding at the meeting consents, or the poll is demanded by not less than ten, or one-third, of the local government electors present at the meeting, whichever is the less[3]. A poll consequent on a parish or community meeting is a poll of those entitled to attend the meeting as local government electors, and must be taken by ballot in accordance with rules made by the Secretary of State[4].

1 As to parish or community meetings see LOCAL GOVERNMENT vol 29(1) (Reissue) para 255 et seq.
2 Local Government Act 1972 s 99, Sch 12 paras 18(4), 34(4) (s 99 amended by the Local Government Act 1985 s 84, Sch 14 para 14; the Education Reform Act 1988 s 237, Sch 13 Pt I; the Police and Magistrates' Courts Act 1994 s 43, Sch 4 para 8; the Police Act 1996 s 103, Sch 7 para 1(2)(h); the Police Act 1997 s 88, Sch 6 para 3; the Greater London Authority Act 1999 s 325, Sch 27 para 26; and the Criminal Justice and Police Act 2001 ss 128(1), 137, Sch 6 paras 22, 25, Sch 7 Pt 5(1)). See *Bennett v Chappell* [1966] Ch 391, [1965] 3 All ER 130, CA (the question must have arisen for decision at the meeting by way of a resolution or by an amendment to a resolution).
3 Local Government Act 1972 Sch 12 paras 18(4), 34(4). See further LOCAL GOVERNMENT vol 29(1) (Reissue) para 258.
4 Ibid Sch 12 paras 18(5), 34(5). As to the Secretary of State see para 2 ante. As to the rules that have been made see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1 (as amended); and para 388 ante. As to expenses incurred in taking a poll consequent on a parish or community meeting see para 594 post.

587. Day of poll consequent on a parish or community meeting taken on any question. The day of a poll consequent on a parish or community meeting[1] must be fixed by the returning officer[2] and must not be earlier than the fourteenth day or later than the twenty-fifth day after the day on which the poll was demanded[3].

1 As to how polls consequent on a parish or community meeting come about see para 586 ante.
2 As to returning officers at polls consequent on a parish or community meeting see para 593 post.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1. As to the computation of time in relation to a poll consequent on a parish or community meeting see para 219 note 5 ante.

588. Notification to council of poll consequent on a parish or community meeting taken on any question. If a poll consequent on a parish or community meeting is required to be taken[1], the chairman of the meeting must notify the council of the area[2] in which the parish or community is situate of the fact[3]; and the chairman of the meeting must give the returning officer[4] such particulars as will enable him to give notice of the poll[5].

1 As to how polls consequent on a parish or community meeting come about see para 586 ante.
2 Ie the district council in England and, by virtue of the Local Government (Wales) Act 1994 s 17, the county or county borough council in Wales. For the meanings of 'England' and 'Wales' see para 13 note 1 ante. As to districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(1). As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq; and as to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.
4 As to returning officers at polls consequent on a parish or community meeting see para 593 post.
5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(2). As to the giving of public notice by a returning officer see para 593 post; and as to the notice of poll see para 613 post.

(iii) The Referendum

A. POLLING DISTRICTS AND POLLING PLACES

589. Polling districts and stations at local authority referendum. For referendums[1] by or in respect of a county in England[2] or a county or county borough in Wales[3], the council may divide a voting area[4] into polling districts, and may alter any polling district; and for referendums held by or in respect of a London borough or a district[5], the London borough or the district council may divide the London borough or the district or any voting area thereof into polling districts, and may alter any polling district[6].

Any power to constitute polling districts for the purpose of referendums must be exercised so that electors from any parliamentary polling district[7] wholly or partly within the voting area can, in the absence of special circumstances, be allotted to a polling station within the parliamentary polling place for that district unless the parliamentary polling place is outside the voting area[8].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For the meaning of 'England' see para 13 note 1 ante. As to counties in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.
3 For the meaning of 'Wales' see para 13 note 1 ante. As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.
4 For the meaning of 'voting area' see para 582 note 2 ante.
5 As to the London boroughs and their councils see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq. As to districts and their councils see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq.
6 Representation of the People Act 1983 s 31(1) (amended by the Local Government Act 1985 s 102(2), Sch 17; and the Local Government (Wales) Act 1994 s 66(6), Sch 16 para 68(6)). The provisions of the Representation of the People Act 1983 s 31(1), (3) (as amended) are applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. As to the provisions that are so applied and modified see para 557 ante.
7 As to parliamentary polling districts and places see para 348 et seq ante.
8 Representation of the People Act 1983 s 31(3) (as applied and modified: see note 6 supra).

590. Extent of poll consequent on a parish or community meeting. A poll consequent on a parish or community meeting which is required to be taken on a question not involving any appointment to office[1], may be held in part only of a parish or community[2], but any reference in the rules of conduct[3] to a parish or community must then be construed as reference to a part of a parish or part of a community, as the case may be[4].

1 As to how polls consequent on a parish or community meeting come about see para 586 ante.
2 As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq; and as to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.
3 As to the rules of conduct for a poll consequent on a parish or community meeting see para 558 ante.
4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 38(1).

B. COUNTING OFFICERS AND RETURNING OFFICERS

(A) Counting Officers at Local Authority Referendum

591. Counting officer's functions, and assistance for counting officers at local authority referendum. Functions conferred for the purposes of local authority referendums[1] on the counting officer[2] must be exercised in each voting area[3] by the person who is for the time being the returning officer at local government elections of councillors for that area under the Representation of the People Act 1983[4]. It is the counting officer's general duty at the referendum to do all such acts and things as may be necessary for effectually conducting the referendum in the manner provided by the rules[5].

The counting officer may appoint persons (known as 'polling observers'[6]) to attend at polling stations for the purpose of detecting personation[7]; and he may by writing under his hand appoint one or more persons to discharge all or any of his functions[8].

1 Ie, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 'Counting officer' means a person referred to, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(1) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(1): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).
3 For the meaning of 'voting area' see para 582 note 2 ante.
4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(1). The text refers to the returning officer appointed, in relation to England, under the Representation of the People Act 1983 s 35(1) (as amended) or s 35(3) (see para 359 ante) and, in relation to Wales, under s 35(1A)(a) (as added) (see para 359 ante).

In relation to a referendum held in England, where, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 14(5) (see para 27 ante), the poll at a referendum is taken together with the poll at an election, the provisions relating to the functions of a counting officer are subject to regs 15(5), 17(2): see reg 11(1).
5 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(2). The text refers to the rules of conduct provided, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. As to the rules of conduct for a local authority referendum see para 557 ante.
6 'Polling observer' means a person appointed by a counting officer, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(3) and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004,

SI 2004/870, reg 11(3): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1).

7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11(3). As to the offence of personation (which is also a corrupt practice) see para 733 post.

8 Representation of the People Act 1983 s 35(4) (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the provisions that are so applied and modified see para 557 ante.

592. Counting officer's expenses at local authority referendum. All expenditure properly incurred by the counting officer[1] for a voting area[2] in relation to the holding of a referendum[3] must be paid by the council for that area in so far as that expenditure does not, in cases where there is a scale fixed for the purpose by the council, exceed that scale[4].

Before a poll is taken at such a referendum, the authority[5] which appointed the returning officer[6] must, at the request of the counting officer or of any person acting as counting officer, advance to him such reasonable sum in respect of his expenses at the referendum as he may require[7].

1 For the meaning of 'counting officer' see para 591 note 2 ante.

2 For the meaning of 'voting area' see para 582 note 2 ante.

3 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

4 Representation of the People Act 1983 s 36(4) (s 36(4), (6) applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the provisions that are so applied and modified see para 557 ante.

5 As to references to the authority see para 576 note 3 ante.

6 As to the designation of returning officers at local government elections see para 359 ante.

7 Representation of the People Act 1983 s 36(6) (as applied and modified: see note 4 supra).

(B) Returning Officers at Poll consequent on a Parish or Community Meeting

593. Returning officer and appointment of office at a poll consequent on parish or community meeting. If a poll consequent on a parish or community meeting is required to be taken on a question not involving any appointment to office[1], the chairman of the meeting must notify the council of the area[2] in which the parish or community[3] is situated and the council must appoint an officer of the council to be returning officer[4]. The returning officer must appoint an office for the purpose of the poll[5].

Any public notice required to be given by a returning officer for these purposes must be given by the notice being posted in some conspicuous place or places in the parish or community, and may also be given in such other manner as the returning officer thinks desirable for publicising it[6].

1 As to when a poll is required to be taken see para 586 ante.

2 Ie the district council in England and, by virtue of the Local Government (Wales) Act 1994 s 17, the county or county borough council in Wales. For the meanings of 'England' and 'Wales' see para 13 note 1 ante. As to districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq.

3 As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq; and as to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 4(1).

5 Ibid r 4(3).

6 Ibid r 5, Schedule r 38(2). Where the poll is held in part only of a parish or community, any reference to a parish or community in the rules is to be construed as a reference to part of the parish or community: Schedule r 38(1).

594. Expenses incurred in taking a poll consequent on a parish or community meeting. The expenditure incurred in taking a poll consequent upon a parish or community meeting[1] falls upon the parish or community[2].

1 As to how polls consequent on a parish or community meeting come about see para 586 ante.
2 See the Local Government Act 1972 s 150; and LOCAL GOVERNMENT vol 29(1) (Reissue) para 522.

C. MANNER OF VOTING AT REFERENDUM OR POLL

(A) Voting Options

595. Manner of voting at a local authority referendum. A person entitled to vote as an elector at a referendum[1] may vote in person at the polling station allotted to him under the appropriate rules[2], unless he is entitled as an elector to an absent vote at the referendum[3]. If he is entitled as an elector to vote by post at the referendum, he may vote by post[4]. If he is entitled to vote by proxy at the referendum, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the appropriate rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there[5]. If he is not entitled as an elector to an absent vote at the referendum[6] but he cannot reasonably be expected to go in person to the polling station allotted to him under the appropriate rules by reason of the particular circumstances of his employment, either as a constable or by the counting officer[7], on the date of the poll for a purpose connected with the referendum[8], he may vote in person at any polling station in the voting area[9].

A local authority[10] may determine, in relation to a referendum which it is to hold[11], that the votes in the referendum are to be cast only by postal ballot[12]. Where such a determination is made, no polling station is to be used at the referendum[13] and any person who, but for the determination, may vote in person, either as a person entitled to vote in the referendum or as proxy, may only vote by post[14].

1 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante.
2 The 'appropriate rules', in the case of a referendum, means the LGA Referendum Rules within the meaning of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (as amended) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870: Representation of the People Act 2000 Sch 4 para 1 (as applied and modified: see note 1 supra). For the meaning of 'LGA Referendum Rules' see para 557 note 4 ante.
3 Representation of the People Act 2000 Sch 4 para 2(1), (2) (as applied and modified: see note 1 supra). For the purposes of Sch 4 (as amended, applied and modified) and the Representation of the People Act 1983, so far as it has effect in relation to England and Wales, a person entitled to vote as an elector at a local government election is entitled as an elector to vote by post or entitled to vote by proxy at the referendum if he is shown in the absent voters list for the referendum as so entitled; and references in those provisions to entitlement as an elector to an absent vote at a local government election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the referendum: Representation of the People Act 2000 Sch 4 para 2(7) (as so applied and modified). For these purposes, the 'absent voters list' means the list kept under Sch 4 para 5(1) (as applied and modified) (see para 601 post): Sch 4 para 1(1) (as so applied and modified).

However, nothing in Sch 4 para 2(1)–(5) (as applied and modified) (see the text and notes 4–9 infra) applies to: (1) a person to whom the Representation of the People Act 1983 s 7 (as substituted and

amended) (deemed residence for persons in mental hospitals who are not detained offenders or on remand: see para 134 ante) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question (Representation of the People Act 2000 Sch 4 para 2(6)(a) (as so applied and modified)); or (2) a person to whom the Representation of the People Act 1983 s 7A (as added and amended) (deemed residence for persons on remand: see para 135 ante) applies (Representation of the People Act 2000 Sch 4 para 2(6)(b) (as so applied and modified)), whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the referendum) (Sch 4 para 2(6) (as so applied and modified)). As to applications to vote by proxy see para 597 et seq post.

4 Ibid Sch 4 para 2(1), (3) (as applied and modified: see note 1 supra).

5 Ibid Sch 4 para 2(1), (4) (as applied and modified: see note 1 supra).

6 Ibid Sch 4 para 2(1), (5)(a) (as applied and modified: see note 1 supra).

7 For the meaning of 'counting officer' see para 591 note 2 ante.

8 Representation of the People Act 2000 Sch 4 para 2(1), (5)(b) (as applied and modified: see note 1 supra).

9 Ibid Sch 4 para 2(1), (5) (as applied and modified: see note 1 supra). For the meaning of 'voting area' see para 582 note 2 ante.

10 For the meaning of 'authority' see para 561 note 1 ante.

11 In relation to a referendum held in Wales, the function of making a determination under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1) is not to be the responsibility of an executive of a local authority operating executive arrangements: reg 10(3). As to operating executive arrangements generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq.

12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1). In such a case, the references in those Regulations and any reference in the Political Parties, Elections and Referendums Act 2000, the Representation of the People Act 2000, the Representation of the People Act 1983, rules under s 36 (as amended) (see para 388 ante), the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, or any enactment relating to the qualification or disqualification for election to, or membership of, a local authority: (1) to polling day, the day or date of the poll or the date fixed for the poll, continue to have effect, in respect of that referendum, as references to the date of the referendum; and (2) to the close of the poll, continue to have effect, in respect of that referendum, as references to 10 pm on the day of the referendum: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1)(c). The provisions as applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8 (see para 557 ante) of the Representation of the People Act 1983 (with the exception of s 31 (as amended, applied and modified) (polling districts and stations: see para 589 ante)), the Representation of the People Act 1985, the Political Parties, Elections and Referendums Act 2000, the Representation of the People Act 2000, the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) (with the exception of reg 55 (as substituted, applied and modified) (additional requirements: see para 600 post), reg 62 (as applied and modified) (marked register for application to vote by proxy at a particular election: see para 605 post) and reg 79 (as amended, applied and modified) (alternative means of returning postal ballot paper or declaration of identity: see para 646 post)), and the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (revoked) apply, as regards the referendum; but the provisions set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4 apply subject to the further modifications set out in relation to them in that Schedule in addition to the modifications having effect by virtue of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8 and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(2). In relation to England, restrictions apply to the making of a determination under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1) where arrangements are made to combine the poll with that at another election or referendum (as to which see para 27 ante): see reg 10(2), (2A), (3) (reg 10(2) amended, and reg 10(2A) added, by SI 2002/251).

13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1)(a).

14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1)(b).

596. Manner of voting at a poll consequent on a parish or community meeting. A poll consequent on a parish or community meeting[1] is a poll of those entitled to attend the meeting as local government electors, and must be taken by ballot in accordance with rules made by the Secretary of State[2].

1 As to how polls consequent on a parish or community meeting come about see para 586 ante.
2 See the Local Government Act 1972 s 99 (as amended), Sch 12 paras 18(5), 34(5); and para 586 ante. As to the rules that have been made see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1 (as amended); and para 388 ante. Those rules make no provision for postal voting in relation to a poll consequent on a parish or community meeting.

(B) Absent Voting at a Local Authority Referendum

(a) Applications relating to a Particular Period or an Indefinite Period

597. Application for absent vote at referendums for a particular period or for an indefinite period. Where a person applies to the registration officer[1] to vote by post at a local authority referendum[2] (whether for an indefinite period or for a particular period specified in his application), the registration officer must grant the application[3] if he is satisfied that the applicant is or will be registered in the register of local government electors[4] and if the application meets the prescribed requirements[5].

Where a person applies to the registration officer to vote by proxy[6] at referendums (whether for an indefinite period or for a particular period specified in his application), the registration officer must grant the application[7] if he is satisfied that the applicant is eligible to vote by proxy at referendums to which the application relates[8], if he is satisfied that the applicant is or will be registered in the register of local government electors[9], and if the application meets the prescribed requirements[10]. For these purposes, a person is eligible to vote by proxy at referendums:

(1) if he is or will be registered as a service voter[11];
(2) if he cannot reasonably be expected to go in person to the polling station allotted or likely to be allotted to him under the appropriate rules[12] or to vote unaided there[13], by reason of blindness or other physical incapacity[14];
(3) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse or civil partner, or by reason of his or his spouse's or his civil partner's attendance on a course provided by an educational institution[15]; or
(4) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea[16].

Such an application[17] must state: (a) the full name of the applicant[18]; (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register[19]; (c) in the case of a person applying to vote by post, the address to which the ballot paper should be sent[20]; and (d) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote[21]. The application must be made in writing and must be signed and dated by the applicant[22]. Such an application which is made for an indefinite period or the period specified in the application must state that it is so made[23] and must specify all or any of the referendums or elections in respect of which it is made[24]. Where an application is made by an elector to vote by proxy, it must include an application for the appointment of a proxy which meets the prescribed requirements[25].

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision[26]; and where he refuses an application, he must notify the applicant of his decision and of the reason for it[27].

1 For these purposes, a reference to the registration officer, in relation to a local authority, is a reference to the relevant registration officer appointed under the Representation of the People Act 1983 s 8 (as amended) (see para 154 ante); and for the purpose of the exercise of a registration officer's functions in relation to the referendum, s 52(1)–(4) (as amended) (discharge of registration duties: see paras 155–156 ante) and s 54(1), (3), (4) (as amended) (payment of expenses of registration: see para 158 ante) have effect: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(m); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(m). For the meaning of 'authority' see para 561 note 1 ante. The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with a referendum or referendums: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1) (applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870).

2 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante.

3 Representation of the People Act 2000 Sch 4 para 3(1) (as applied and modified: see note 2 supra). Such an application must be disregarded for the purposes of any particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum; and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56(1), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870.

In computing a period of days for the purposes of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56 (as applied and modified), Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday is disregarded: reg 56(6) (as so applied and modified). 'Bank holiday' means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in England and Wales: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(7) (as so applied and modified).

4 Representation of the People Act 2000 Sch 4 para 3(1)(a) (as applied and modified: see note 2 supra). As to the register of local government electors see para 160 et seq ante.

5 Ibid Sch 4 para 3(1)(b) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended, applied and modified).

6 As to voting by proxy for an elector at a referendum see para 602 et seq post.

7 Representation of the People Act 2000 Sch 4 para 3(2) (as applied and modified: see note 2 supra). Such an application must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that referendum: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(2) (amended by SI 2006/752; and applied and modified (see note 3 supra)). Where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 3 supra). Where the day or last day of the time allowed by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended, applied and modified) for the doing of any thing falls on a Saturday or Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday, that time must be extended until the next following day which is not one of those days: reg 8(1), (3) (reg 8 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870). Subject to the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(6) (as applied and modified), in computing any period of not more than 7 days for these purposes a Saturday or Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday must be disregarded: reg 8(2), (3) (as so applied and modified). 'Bank holiday' means a day which is a bank holiday under the Banking and Financial

Dealings Act 1971 (see TIME vol 45(2) (Reissue) para 220) in England and Wales: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 8(4) (as so applied and modified).

8 Representation of the People Act 2000 Sch 4 para 3(2)(a) (as applied and modified: see note 2 supra).

9 Ibid Sch 4 para 3(2)(b) (as applied and modified: see note 2 supra).

10 Ibid Sch 4 para 3(2)(c) (as applied and modified: see note 2 supra). As to the prescribed requirements see note 5 supra. As to applications made by an elector to appoint a person as proxy to vote for him see para 602 et seq post.

11 Ibid Sch 4 para 3(3)(a) (as applied and modified: see note 2 supra). As to registration as a service voter see para 140 et seq ante.

12 Ibid Sch 4 para 3(3)(b)(i) (as applied and modified: see note 2 supra). For the meaning of the 'appropriate rules' see para 595 note 2 ante.

13 Ibid Sch 4 para 3(3)(b)(ii) (as applied and modified: see note 2 supra).

14 Ibid Sch 4 para 3(3)(b) (as applied and modified: see note 2 supra).

15 Ibid Sch 4 para 3(3)(c) (amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 164(1), (2); and applied and modified (see note 2 supra)).

16 Ibid Sch 4 para 3(3)(d) (as applied and modified: see note 2 supra).

17 Applications relating to absent voting must comply with such requirements as are relevant to the application: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1) (reg 51 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 17 supra).

19 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 17 supra)).

20 Ibid reg 51(2)(d) (as applied and modified: see note 17 supra).

21 Ibid reg 51(2)(e) (as applied and modified: see note 17 supra). For these purposes, a reference to a person voting as an elector is to be construed as a reference to a person voting on their own behalf; and a reference to a person's entitlement as an elector to an absent vote is to be construed as a reference to a person's entitlement to vote by post on their own behalf or to vote by proxy: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(h), (i); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(h), (i).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(3) (as applied and modified: see note 17 supra). The requirement in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended, applied and modified) that any application, notice or objection should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it is transmitted by electronic means, is received in legible form, and is capable of being used for subsequent reference: reg 5 (regs 5, 6 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870). A requirement in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) for an application, notice or objection to be signed is satisfied (as an alternative to the signature given by hand) where there is both an electronic signature incorporated into or logically associated with a particular electronic communication and the certification by any person of such a signature: reg 6(1) (as so applied and modified). For these purposes, an electronic signature is so much of anything in electronic form as is incorporated into or otherwise logically associated with any electronic communication or both and purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication, the integrity of the communication or both (reg 6(2) (as so applied and modified)); and an electronic signature incorporated into or associated with a particular electronic communication is certified by any person if that person (whether before or after the making of the communication) has made a statement confirming that the signature, a means of producing, communicating or verifying the signature or a procedure applied to the signature, is (either alone or in combination with other factors) a valid means of establishing the authenticity of the communication, the integrity of the communication or both (reg 6(3) (as so applied and modified)).

In relation to England only, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see para 591 note 2 ante.

23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a) (as applied and modified: see note 17 supra).

24 Ibid reg 51(4)(b) (as applied and modified: see note 17 supra).

25 See ibid regs 51(6), 52 (as applied and modified); and para 603 post.

26 Ibid reg 57(1) (amended by SI 2006/752; and applied and modified (see note 3 supra)).

27 Ibid reg 57(4) (as applied and modified: see note 3 supra). In the context of elections, a right of appeal lies to the county court from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see para 189 et seq ante.

598. Record of those entitled to an absent vote at referendums for a definite period or for an indefinite period. The registration officer[1] must keep a record of those whose applications for an absent vote at referendums[2] for a definite period or for an indefinite period[3] have been granted showing[4]: (1) whether their applications were to vote by post or proxy for an indefinite or a particular period (specifying that period)[5]; (2) whether their applications were in respect of referendums and elections[6]; (3) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent[7]; and (4) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies[8]. The registration officer must make available for inspection at his office a copy of the records so kept[9] and any person may make a copy (whether handwritten or by other means) of the whole or any part of them[10].

The registration officer must remove a person from the record: (a) if he applies to the registration officer to be removed[11]; (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered in pursuance of[12] a service declaration[13] or a declaration of local connection[14]; (c) in the case of any person shown in the record as voting by proxy, if the registration officer gives notice that he has reason to believe there has been a material change of circumstances[15]; or (d) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired[16]. Where a person is removed from the record under any of heads (a) to (d) above, the registration officer must notify him of this and the reason for it[17].

A person shown in the record as voting by post may subsequently alter his choice by applying to the registration officer to vote by proxy instead (whether for an indefinite period or for a particular period specified in his application); and, if the registration officer would be required to grant that application to vote by proxy[18], the registration officer must amend the record accordingly[19]. Equally, a person shown in the record as voting by proxy may subsequently alter his choice by applying to the registration officer to vote by post instead (whether for an indefinite period or for a particular period specified in his application); and, if the application meets the prescribed requirements, the registration officer must amend the record accordingly[20].

1 As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante.

2 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante. As to the meaning of references to a person's entitlement as an elector to an absent vote see para 597 note 21 ante.

3 Ie applications for the purposes of a local authority referendum under the Representation of the People Act 2000 Sch 4 para 3 (as amended, applied and modified) (see para 597 ante).

4 Ibid Sch 4 para 3(4) (as applied and modified: see note 2 supra).

5 Ibid Sch 4 para 3(4)(a)(ii) (as applied and modified: see note 2 supra).

6 Ibid Sch 4 para 3(4)(a)(i) (as applied and modified: see note 2 supra).

7 Ibid Sch 4 para 3(4)(b) (as applied and modified: see note 2 supra).

8 Ibid Sch 4 para 3(4)(c) (as applied and modified: see note 2 supra). As to the appointment of proxies see para 602 et seq post.

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(2) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). 'Available for inspection' means available for inspection during ordinary office hours: Representation of

the People (England and Wales) Regulations 2001, SI 2001/341, reg 3(1) (definition applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(1) (renumbered by SI 2002/1871; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

11 Representation of the People Act 2000 Sch 4 para 3(5)(a) (as applied and modified: see note 2 supra). Such an application by an elector to be removed from the record must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700)); and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752)). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see para 597 notes 3, 7 ante.

12 Representation of the People Act 2000 Sch 4 para 3(5)(b) (as applied and modified: see note 2 supra).

13 Ibid Sch 4 para 3(5)(b)(i) (as applied and modified: see note 2 supra). As to registration in pursuance of a service declaration see para 140 et seq ante.

14 Ibid Sch 4 para 3(5)(b)(ii) (as applied and modified: see note 2 supra). As to registration in pursuance of a declaration of local connection see para 136 et seq ante.

15 Ibid Sch 4 para 3(5)(c) (as applied and modified: see note 2 supra).

16 Ibid Sch 4 para 3(5)(d) (as applied and modified: see note 2 supra).

17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4B) (added by SI 2006/752; and applied and modified (see note 11 supra)).

18 Ie if it were one that had been made for the purposes of a local authority referendum under the Representation of the People Act 2000 Sch 4 para 3(2) (as applied and modified) (see para 597 ante).

19 Ibid Sch 4 para 3(6) (as applied and modified: see note 2 supra). Such an application must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752; and applied and modified (see note 11 supra)). Where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 11 supra). As to the computation of time for these purposes see para 597 notes 3, 7 ante.

20 Representation of the People Act 2000 Sch 4 para 3(7) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended, applied and modified). An application under the Representation of the People Act 2000 Sch 4 para 3(7) (as applied and modified) must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (as amended, applied and modified: see notes 11, 19 supra). Where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: reg 57(5) (as amended, applied and modified: see note 11 supra).

(b) Applications relating to a Particular Referendum

599. Applications for absent vote at particular referendum. Where a person applies to the registration officer[1] to vote by post at a particular referendum[2], the registration officer must grant the application[3] if he is satisfied that the applicant is or will be registered in the register of local government electors[4] and if the application meets the prescribed requirements[5]. Where a person applies to the registration officer to vote by proxy[6] at a particular referendum, the registration officer must grant the application[7] if: (1) he is satisfied that the applicant's circumstances on the date of the poll

will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the appropriate rules[8]; (2) he is satisfied that the applicant is or will be registered in the register of local government electors[9]; and (3) the application meets the prescribed requirements[10].

A person who is included in the record kept of those entitled to an absent vote in respect of referendums either for a particular period or for an indefinite period[11], may, in respect of a particular referendum, apply to the registration officer[12] for his ballot paper to be sent to a different address from that shown in the record[13] or to vote by proxy[14], if he is shown in the record so kept as voting by post at referendums of the kind in question[15]; and the registration officer must grant such an application if[16], in the case of any application, it meets the prescribed requirements[17] and, in the case of an application to vote by proxy, the registration officer is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the appropriate rules[18].

Such an application[19] must state: (a) the full name of the applicant[20]; (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register[21]; (c) in the case of a person applying to vote by post, the address to which the ballot paper should be sent[22]; and (d) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote[23]. Additionally, in relation to England, an application for a ballot paper to be sent to a different address from that shown in the record must set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address[24]. Such an application which is made for a particular referendum must identify the referendum in question[25] and must state that it is made for a particular referendum[26]. The application must be made in writing and must be signed and dated by the applicant[27]. Where an application is made by an elector to vote by proxy, it must include an application for the appointment of a proxy which meets the prescribed requirements[28].

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision[29]; and where he refuses an application, he must notify the applicant of his decision[30].

1 As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante. The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with a referendum or referendums: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1) (applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.

2 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante. As to the meaning of references to a person's entitlement as an elector to an absent vote at a referendum see para 597 note 21 ante.

3 Representation of the People Act 2000 Sch 4 para 4(1) (as applied and modified: see note 2 supra). Such an application must be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the referendum for which it is made; and where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56(4), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see para 597 notes 3, 7 ante.

4 Representation of the People Act 2000 Sch 4 para 4(1)(a) (as applied and modified: see note 2 supra). As to the registers of electors see para 160 et seq ante.

5 Ibid Sch 4 para 4(1)(b) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended, applied and modified).

6 As to voting by proxy at a referendum see para 602 et seq post.

7 Representation of the People Act 2000 Sch 4 para 4(2) (as applied and modified: see note 2 supra). Such an application must be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the referendum for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3) (substituted by SI 2006/752; and applied and modified (see note 3 supra)). Where an application under the Representation of the People Act 2000 Sch 4 para 4(2) (as applied and modified) is made on the grounds of the applicant's physical incapacity, and the applicant became physically incapacitated after 5 pm on the sixth day before the date of the poll at the referendum for which it is made, the application must be refused if it is received after 5 pm on the day of the poll at the referendum for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3A) (added by SI 2006/752; and as so applied and modified). Where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 3 supra). This restriction applies also to applications made under the Representation of the People Act 2000 Sch 4 para 6(8) (as applied and modified) made by virtue of an application under Sch 4 para 4(2) (as applied and modified): see para 603 post.

8 Ibid Sch 4 para 4(2)(a) (as applied and modified: see note 2 supra). For the meaning of 'appropriate rules' see para 595 note 2 ante.

9 Ibid Sch 4 para 4(2)(b) (as applied and modified: see note 2 supra).

10 Ibid Sch 4 para 4(2)(c) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (as amended, applied and modified). As to additional requirements to be included in applications to vote by proxy at a particular referendum see para 600 post.

11 Ie the record kept under the Representation of the People Act 2000 Sch 4 para 3 (as amended, applied and modified) (see para 598 ante).

12 Ibid Sch 4 para 4(3) (as applied and modified: see note 2 supra).

13 Ibid Sch 4 para 4(3)(a) (as applied and modified: see note 2 supra).

14 Ibid Sch 4 para 4(3)(b) (as applied and modified: see note 2 supra).

15 Ibid Sch 4 para 4(3) (as applied and modified: see note 2 supra). Such an application must be refused for the purposes of any particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(1) (amended by SI 2006/752; and applied and modified (see note 3 supra)). Where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 3 supra).

16 Representation of the People Act 2000 Sch 4 para 4(4) (as applied and modified: see note 2 supra). Where the registration officer grants such an application made by a person shown as voting by post, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4A) (added by SI 2006/752; and applied and modified (see note 3 supra)).

17 Representation of the People Act 2000 Sch 4 para 4(4)(a) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001,

SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (as amended, applied and modified); and see note 19 infra.

18 Representation of the People Act 2000 Sch 4 para 4(4)(b) (as applied and modified: see note 2 supra).

19 Applications relating to absent voting must comply with such requirements as are relevant to the application: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1) (reg 51 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870).

20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 19 supra).

21 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 19 supra)).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(d) (as applied and modified: see note 19 supra).

23 Ibid reg 51(2)(e) (as applied and modified: see note 19 supra).

24 Ibid reg 51B (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298).

25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b) (as applied and modified: see note 19 supra).

26 Ibid reg 51(5)(a) (as applied and modified: see note 19 supra). However, where the poll at one election or referendum falls on the same day as the poll at another election or referendum (as to which see para 20 ante), the same application may be used for both: reg 51(5) (as so applied and modified).

27 Ibid reg 51(3) (as applied and modified: see note 19 supra). In relation to England, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see para 591 note 2 ante. As to the requirements for documents to be in writing and signed see para 597 note 22 ante.

28 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 51(6), 52 (as applied and modified); and para 603 post.

29 Ibid reg 57(1) (amended by SI 2006/752; and applied and modified (see note 3 supra)).

30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4) (as applied and modified: see note 3 supra). In the context of elections, a right of appeal lies to the county court only from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see para 189 et seq ante.

600. Additional requirements for applications for a proxy vote at a particular referendum. An application to vote by proxy at a particular referendum[1] must set out why the applicant's circumstances on the date of the poll for that referendum will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station[2]. Where such an application is made on the grounds of the applicant's physical incapacity[3] and is made after 5 pm on the sixth day before the date of the poll at the referendum for which it is made[4], such an application must be attested and signed by[5]:

(1) a registered medical practitioner[6];
(2) a nurse registered on the register maintained by the Nursing and Midwifery Council[7] by virtue of qualifications in nursing[8];
(3) a Christian Science practitioner[9];
(4) the person registered as carrying on a residential care home[10], where the applicant states that he is resident in such a home[11];
(5) the matron or other person in charge of residential accommodation provided by a local authority[12], where the applicant states that he is resident in such accommodation[13]; or
(6) the warden of premises forming one of a group of premises provided for persons of pensionable age or physically disabled persons for which there is a resident warden, where the applicant states that he resides in such premises[14].

A person who qualifies by virtue of head (1), (2) or (3) above may not attest an application for this purpose unless he is treating the applicant for the physical incapacity

specified in the application or the applicant is receiving care from him in respect of that incapacity[15]. The person attesting the application must state: (a) his name and address and the qualification by virtue of which he attests the application and, where the person who attests the application is a person who qualifies by virtue of head (1), (2) or (3) above, that he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity[16]; (b) that, to the best of his knowledge and belief, the applicant is suffering from the physical incapacity specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there by reason of that incapacity[17]; and (c) that, to the best of his knowledge and belief, the physical incapacity specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application[18]. In addition[19], the person who attests the application must state, to the best of his knowledge and belief, the date upon which the applicant became physically incapacitated[20].

However, the provisions as to attestation[21] do not apply where the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority[22] which is specified in the application[23] or where the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance[24] because of the physical incapacity specified in the application[25].

1 Ie an application under the Representation of the People Act 2000 s 12, Sch 4 para 4(2) (as applied and modified) (see para 599 ante). For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the meaning of references to a person's entitlement as an elector to an absent vote at a referendum see para 597 note 21 ante.

2 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(1) (reg 55 substituted by SI 2006/752; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'his allotted polling station' in relation to an elector see para 373 note 30 ante; definition applied by virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 50 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. The application referred to in the text must also satisfy the general requirements of absent voting applications (as to which see para 599 ante). As to the offence in respect of false statements see para 738 post.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2)(a) (as substituted, applied and modified: see note 2 supra).

4 Ibid reg 55(2)(b) (as substituted, applied and modified: see note 2 supra). As to the computation of time for these purposes see para 597 note 7 ante.

5 Ibid reg 53(2); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra). As to the offence of attesting such an application when not authorised to do so see para 738 post.

6 Ibid reg 53(2)(a); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

7 Ie the register maintained under the Nursing and Midwifery Order 2001, SI 2002/253, art 5 (see MEDICAL PROFESSIONS vol 30(1) (Reissue) para 717).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(b) (substituted by SI 2002/881; and amended by SI 2004/1771); applied by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 55(2) (as substituted, applied and modified: see note 2 supra).

9 Ibid reg 53(2)(c); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

10 As to the registration of residential care homes see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1042 et seq.

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(d); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

12 Ie under the National Assistance Act 1948 s 21(1) (as amended) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) paras 1029–1030).

13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(2)(e); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

14 Ibid reg 53(2)(f); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).
15 Ibid reg 53(3); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).
16 Ibid reg 53(4)(a); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).
17 Ibid reg 53(4)(b); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra). For these purposes, 'his allotted polling station', in relation to an elector, means the polling station allotted or likely to be allotted to him under the appropriate rules: reg 53(7); applied by reg 55(2) (as so substituted, applied and modified). For the meaning of the 'appropriate rules' see para 595 note 2 ante.
18 Ibid reg 53(4)(c); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).
19 Ie in addition to those matters specified in ibid reg 53(4) (as amended and applied) (see the text and notes 16–18 supra).
20 Ibid reg 55(3) (as substituted, applied and modified: see note 2 supra).
21 Ie in ibid reg 53(2)–(4) (as amended and applied) (see the text and notes 5–18 supra).
22 Ie the local authority which has made arrangements for compiling and maintaining classified registers of persons who are blind, etc under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1021).
23 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(a); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra). The fact that an applicant is registered with a local authority under the National Assistance Act 1948 s 29(4)(g) (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) para 1021) is deemed sufficient evidence that he is eligible to vote by proxy on grounds of the applicant's physical incapacity: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(6); applied by reg 55(2) (as so substituted, applied and modified).
24 Ie payable under the Social Security Contributions and Benefits Act 1992 ss 71, 73 (as amended) (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) para 106).
25 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 53(5)(b); applied by reg 55(2) (as substituted, applied and modified: see note 2 supra).

601. Absent voters list at a local authority referendum. In respect of each local authority referendum[1], the registration officer[2] must keep a special list (called the 'absent voters list') which consists of two lists[3]. The first is a list[4] of: (1) those whose applications to vote by post at that particular referendum[5] have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent[6]; and (2) those who are for the time being shown in the record kept of those entitled to an absent vote at referendums either for a particular period or for an indefinite period[7] as voting by post at particular referendums of the kind in question[8], together with the addresses provided by them in their applications[9] as the addresses to which their ballot papers are to be sent[10]. The second is a list[11] of: (a) those whose applications to vote by proxy at that particular referendum[12] have been granted[13]; and (b) those who are for the time being shown in the record kept of those entitled to an absent vote at referendums either for a particular period or for an indefinite period[14] as voting by proxy at particular referendums of the kind in question[15], together with (in each case) the names and addresses of those appointed as their proxies[16].

As soon as practicable after the sixth day[17] before the day of the poll at a referendum, the registration officer must publish the absent voters list by making a copy of it available for inspection at his office[18] and any person may make a copy (whether handwritten or by other means) of the whole or any part of it[19].

1 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante.
2 As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante.
3 Representation of the People Act 2000 Sch 4 para 5(1) (as applied and modified: see note 1 supra).
4 Ibid Sch 4 para 5(2) (as applied and modified: see note 1 supra).
5 Ie applications made under ibid Sch 4 para 4(1) (as applied and modified) (see para 599 ante).

6 Ibid Sch 4 para 5(2)(a) (as applied and modified: see note 1 supra).
7 Ie the record kept under ibid Sch 4 para 3 (as amended, applied and modified) (see para 598 ante).
8 Ie excluding those so shown whose applications to vote by proxy at the referendum under ibid Sch 4 para 4(3)(b) (as applied and modified) have been granted (see para 599 ante).
9 Ie the applications made under ibid Sch 4 para 3 (as applied and modified) (see para 597 ante) or, as the case may be, under Sch 4 para 4(3)(a) (as applied and modified) (see para 599 ante).
10 Ibid Sch 4 para 5(2)(b) (as applied and modified: see note 1 supra).
11 Ibid Sch 4 para 5(3) (as applied and modified: see note 1 supra).
12 Ie the applications made under ibid Sch 4 para 4(2), (3) (as applied and modified) (see para 599 ante).
13 Ibid Sch 4 para 5(3)(a) (as applied and modified: see note 1 supra).
14 See note 7 supra.
15 Representation of the People Act 2000 Sch 4 para 5(3)(b) (as applied and modified: see note 1 supra).
16 Ibid Sch 4 para 5(3) (as applied and modified: see note 1 supra).
17 As to the computation of time for these purposes see para 597 note 7 ante.
18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(3)(a) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'available for inspection' see para 598 note 9 ante.
19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(1) (renumbered by SI 2002/1871; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

(c) Voting as Proxy at a Referendum

602. Capacity of person to act as proxy for an elector at a referendum. Any person is capable of being appointed proxy to vote for another[1] at any local authority referendum[2] and he may vote in pursuance of the appointment[3]. However, the elector[4] cannot have more than one person at a time appointed as proxy to vote for him at referendums held in the same voting area[5]; and a person is not capable of being appointed to vote or voting as proxy if he is subject to any legal incapacity[6] (age apart[7]) to vote at that referendum as elector[8] or if he is neither a Commonwealth citizen[9] nor a citizen of the Republic of Ireland[10] nor a relevant citizen of the Union[11].

A person is not capable of voting as proxy at any local authority referendum unless on the date of the poll he has attained the age of 18[12]. A person is not entitled to vote as proxy at the same referendum held in any voting area[13] on behalf of more than two electors of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild[14].

1 Ie subject to the restrictions contained in the Representation of the People Act 2000 s 12, Sch 4 para 6 (as amended, applied and modified). As to applications made by an elector to vote by proxy at referendums for a particular period or for an indefinite period see para 597 et seq ante; and as to such applications made in relation to a particular referendum see para 598 et seq ante.
2 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of ibid Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante.
3 Representation of the People Act 2000 Sch 4 para 6(1) (as applied and modified: see note 2 supra).
4 For these purposes, the term 'elector' refers to a person for whom a proxy is appointed: ibid Sch 4 para 6(1) (as applied and modified: see note 2 supra).
5 Ibid Sch 4 para 6(2)(b) (as applied and modified: see note 2 supra). For the meaning of 'voting area' see para 582 note 2 ante.
6 As to the meaning of 'legal incapacity' for these purposes see para 110 note 8 ante.
7 'Voting age' for a local government elector means 18 years or over: see para 112 note 14 ante. See the text and note 12 infra.
8 Representation of the People Act 2000 Sch 4 para 6(4)(a) (as applied and modified: see note 2 supra).
9 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 11.
10 As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 12.

11 Representation of the People Act 2000 Sch 4 para 6(4)(b) (as applied and modified: see note 2 supra). For the meaning of 'relevant citizen of the Union' see para 112 note 13 ante.

12 Ibid Sch 4 para 6(5) (as applied and modified: see note 2 supra).

13 Ibid Sch 4 para 6(6)(b) (as applied and modified: see note 2 supra).

14 Ibid Sch 4 para 6(6) (Sch 4 para 6(6) amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 164(1), (3); and applied and modified (see note 2 supra)).

603. Applications for appointment to vote as proxy at a referendum. Where the elector[1] applies to the registration officer[2] for the appointment of a proxy to vote for him at a local authority referendum[3] (whether for an indefinite period or for a particular period specified in his application[4]), the registration officer must make the appointment if the application meets the prescribed requirements[5] and he is satisfied that the elector is or will be[6] registered in the register of local government electors[7] and shown in the record kept of those entitled to an absent vote at referendums either for a particular period or for an indefinite period[8] as voting by proxy at such referendums[9], and that the proxy is capable of being, and willing to be, appointed to vote as proxy at such referendums[10].

Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular referendum[11], the registration officer must make the appointment if the application meets the prescribed requirements[12] and he is satisfied that the elector[13] is or will be registered in the register of local government electors[14] and is or will be entitled to vote by proxy at that referendum by virtue of that application[15], and that the proxy is capable of being, and willing to be, appointed[16].

Such an application[17] must state: (1) the full name of the applicant[18]; and (2) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register[19]. The application must be made in writing and must be signed and dated by the applicant[20]. An application which is made for an indefinite period or the period specified in the application must identify those elections or referendums in respect of which it is made[21] and must state that it is made for an indefinite period or for a period specified in the application[22]. An application which is made for a particular referendum must identify the referendum in question[23] and must state that it is so made[24]. Where the poll at one election or referendum falls on the same day as the poll at another election or referendum, the same application may be used for both[25]. An application for the appointment of a proxy must state also the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant[26]. If the application is signed only by the applicant, it must contain a statement by him that he has consulted the person so named and that the person is capable of being and willing to be appointed to vote as his proxy[27]. If the application is signed also by the person to be appointed, it must contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant's proxy[28].

The appointment of a proxy is to be made by means of a proxy paper in the prescribed form issued by the registration officer[29].

Where the registration officer grants an application for the appointment of a proxy, he must confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment[30]. Where he refuses an application, he must notify the applicant of his decision and of the reason for it[31].

1 For the meaning of 'elector' in this context see para 602 note 4 ante.

2 As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante. The registration officer must supply free of charge as many forms for use in connection with applications made under the provisions relating to absent voting as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with

a referendum or referendums: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(1) (reg 4 applied and modified, in relation to England, by SI 2001/1298; and, in relation to Wales, by SI 2004/870).

3 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante.

4 As to applications made by an elector to vote by proxy at referendums for a particular period or for an indefinite period see para 597 et seq ante.

5 For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended, applied and modified). An application referred to in the text must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that referendum; and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: regs 56(2), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see para 597 notes 3, 7 ante.

6 Representation of the People Act 2000 Sch 4 para 6(7) (as applied and modified: see note 3 supra).

7 Ibid Sch 4 para 6(7)(a) (as applied and modified: see note 3 supra). As to the registers of electors see para 160 et seq ante.

8 Ie the record kept for the purposes under ibid Sch 4 para 3 (as amended, applied and modified) (see para 598 ante).

9 Ibid Sch 4 para 6(7)(b) (as applied and modified: see note 3 supra).

10 Ibid Sch 4 para 6(7) (as applied and modified: see note 3 supra).

11 As to such applications see para 599 ante.

12 As to the statutory requirements see note 5 supra; and as to the requirements that have been prescribed see para 599 ante. An application must be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the referendum for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3) (substituted by SI 2006/752; and applied and modified (see note 5 supra)). Where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 5 supra).

13 Representation of the People Act 2000 Sch 4 para 6(8) (as applied and modified: see note 3 supra).

14 Ibid Sch 4 para 6(8)(a) (as applied and modified: see note 3 supra).

15 Ibid Sch 4 para 6(8)(b) (as applied and modified: see note 3 supra). The text refers to entitlement to vote by virtue of an application under Sch 4 para 4(2), (3) (as applied and modified) (see para 599 ante). Where an application under Sch 4 para 4(2) (as applied and modified) is made on the grounds of the applicant's physical incapacity and the applicant became physically incapacitated after 5 pm on the sixth day before the date of the poll at the referendum for which it is made, an application under Sch 4 para 6(8) (as applied and modified) made by virtue of that application must be refused if it is received after 5 pm on the day of the poll at the referendum for which it is made: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(3A) (added by SI 2006/752; and applied and modified (see note 5 supra)). Where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (as amended, applied and modified: see note 5 supra).

16 Representation of the People Act 2000 Sch 4 para 6(8) (as applied and modified: see note 3 supra).

17 Applications relating to absent voting must comply with such requirements as are relevant to the application: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1) (reg 51 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 17 supra).
19 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 17 supra)).
20 Ibid reg 51(3) (as applied and modified: see note 17 supra). In relation to England, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see para 591 note 2 ante. As to the requirements for documents to be in writing and signed see para 597 note 22 ante.
21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(b) (as applied and modified: see note 17 supra).
22 Ibid reg 51(4)(a) (as applied and modified: see note 17 supra).
23 Ibid reg 51(5)(b) (as applied and modified: see note 17 supra).
24 Ibid reg 51(5)(a) (as applied and modified: see note 17 supra).
25 Ibid reg 51(5) (as applied and modified: see note 17 supra).
26 Ibid reg 51(6) (as applied and modified: see note 17 supra); reg 52 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).
27 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 52(a) (as applied and modified: see note 26 supra). As to capacity to act as proxy at a referendum see para 602 ante.
28 Ibid reg 52(b) (as applied and modified: see note 26 supra).
29 Representation of the People Act 2000 Sch 4 para 6(9) (as applied and modified: see note 3 supra). As to forms generally see note 2 supra. As to the prescribed form of proxy paper for these purposes see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(3) (as applied and modified: see note 5 supra), Sch 3 (Form E: proxy paper) (amended by SI 2005/2114; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). The prescribed form or a form substantially to the like effect may be used with such variations as the circumstances may require: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 4(2) (as applied and modified: see note 2 supra).
30 Ibid reg 57(2) (as applied and modified: see note 5 supra).
31 Ibid reg 57(4) (as applied and modified: see note 5 supra). In the context of elections, a right of appeal lies to the county court only from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see para 189 et seq ante.

604. Duration of appointment to vote as proxy at a referendum. The appointment of a proxy at a local authority referendum[1] may be cancelled by the elector[2] giving notice to the registration officer[3]. The appointment also ceases to be in force[4]:

(1) on the issue of a proxy paper appointing a different person to vote for him at a referendum or referendums, whether in the same voting area[5] or elsewhere[6]; and

(2) where the appointment was for a particular period, once that period expires[7].

The appointment otherwise remains in force for the particular referendum for which the appointment was made[8] or, where the appointment was made for a particular period or for an indefinite period, while the elector is shown as voting by proxy in the record kept of those entitled to an absent vote at referendums either for a particular period or for an indefinite period[9], in pursuance of the same application[10] in respect of which he was included in that record[11].

Where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer must notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it[12]. Where the appointment of a proxy is cancelled by notice given to the registration officer[13] or ceases to be in force[14] or is no longer in force for a particular period or for an indefinite period[15], the registration officer[16] must notify the person whose appointment as proxy has been cancelled, expired, ceases to be or is no longer in force (unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy)[17] and must remove his name from the record of names and addresses of those appointed as proxies[18].

1 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante. As to applications for the appointment of a proxy at a referendum see para 603 ante.
2 For the meaning of 'elector' in this context see para 602 note 4 ante.
3 Representation of the People Act 2000 Sch 4 para 6(10) (as applied and modified: see note 1 supra). However, such a notice must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700); and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante; and as to the computation of time see para 597 notes 3, 7 ante.
4 Representation of the People Act 2000 Sch 4 para 6(10) (as applied and modified: see note 1 supra).
5 For the meaning of 'voting area' see para 582 note 2 ante.
6 Representation of the People Act 2000 Sch 4 para 6(10)(b) (as applied and modified: see note 1 supra).
7 Ibid Sch 4 para 6(10)(c) (as applied and modified: see note 1 supra).
8 Ibid Sch 4 para 6(11)(a) (as applied and modified: see note 1 supra).
9 Ie the record kept under ibid Sch 4 para 3 (as amended, applied and modified) (see para 598 ante).
10 Ie under ibid Sch 4 para 3 (as amended, applied and modified) (see para 597 ante).
11 Ibid Sch 4 para 6(11)(b) (as applied and modified: see note 1 supra).
12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4C) (added by SI 2006/752; and applied and modified (see note 3 supra)).
13 Ie under the Representation of the People Act 2000 Sch 4 para 6(10) (as applied and modified) (see the text and notes 1–3 supra).
14 Ie under ibid Sch 4 para 6(10) (as applied and modified) (see the text and notes 4–7 supra).
15 Ie under ibid Sch 4 para 6(11)(b) (as applied and modified) (see the text and notes 9–11 supra).
16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).
17 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 59(a) (as applied and modified: see note 16 supra).
18 Ibid reg 59(b) (as applied and modified: see note 16 supra). The text refers to the record kept under the Representation of the People Act 2000 Sch 4 para 3(4)(c) (as applied and modified) (see para 598 ante).

605. Voting in person as proxy at referendum. A person entitled to vote as proxy at a referendum[1] may do so in person at the polling station allotted to the elector[2] under the appropriate rules[3]. Where a person is entitled to vote by post as proxy for the elector at any referendum[4], the elector may not apply for a ballot paper for the purpose of voting in person at the referendum[5]. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station[6].

1 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante. As to applications for the appointment of a proxy at a referendum see para 602 et seq ante.
2 For the meaning of 'elector' in this context see para 602 note 4 ante.
3 Representation of the People Act 2000 Sch 4 para 7(1) (as applied and modified: see note 1 supra). For the meaning of the 'appropriate rules' see para 595 note 2 ante.
4 As to applications to vote by post as proxy at referendum see para 606 et seq post.
5 Representation of the People Act 2000 Sch 4 para 7(2) (as applied and modified: see note 1 supra).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 62 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

606. Application by person to vote by post as proxy at referendum. Where a person applies to the registration officer[1] to vote by post either as proxy at local authority referendums[2] (whether for an indefinite period or for a particular period specified in his application)[3] or as proxy at a particular referendum[4], the registration officer must grant the application[5] if: (1) the registration officer is satisfied that the elector[6] is or will be registered in the register of local government electors[7]; and (2) there is in force an appointment of the applicant as the elector's proxy to vote for him at referendums of the kind in question or, as the case may be, the referendum concerned[8]; and (3) the application meets the prescribed requirements[9].

Such an application[10] must state: (a) the full name of the applicant[11]; (b) the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register[12]; (c) the address to which the ballot paper should be sent[13]; and (d) the grounds on which the elector claims to be entitled to an absent vote[14]. The application must be made in writing and must be signed and dated by the applicant[15]. An application which is made for an indefinite period or the period specified in the application must state that it is so made[16] and must specify all or any of the elections or referendums in respect of which it is made[17]. An application which is made for a particular referendum must state that it is so made[18] and must identify the referendum in question[19]. Where the poll at one election or referendum falls on the same day as the poll at another election or referendum, the same application may be used for both[20].

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision[21]; and where he refuses an application, he must notify the applicant of his decision and give the reason for it[22].

1 As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante.

2 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante. As to applications for the appointment of a proxy at a referendum see para 602 et seq ante.

3 Representation of the People Act 2000 Sch 4 para 7(4)(a) (as applied and modified: see note 2 supra). As to applications so made see para 597 ante.

4 Ibid Sch 4 para 7(4)(b) (as applied and modified: see note 2 supra). As to applications so made see para 599 ante.

5 Ibid Sch 4 para 7(4) (as applied and modified: see note 2 supra). Such an application must be disregarded for the purposes of any particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum; and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56(1), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see para 597 notes 3, 7 ante.

6 For the meaning of 'elector' in this context see para 602 note 4 ante.

7 Representation of the People Act 2000 Sch 4 para 7(5)(a) (as applied and modified: see note 2 supra). As to the registers of electors see para 160 et seq ante.

8 Ibid Sch 4 para 7(5)(b) (as applied and modified: see note 2 supra). As to the appointment of a proxy see para 603 et seq ante.

9 Ibid Sch 4 para 7(5)(c) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of

subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended, applied and modified).

10 Applications relating to absent voting must comply with such requirements as are relevant to the application: ibid reg 51(1) (reg 51 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 10 supra).

12 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 10 supra)); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(c) (as so applied and modified).

13 Ibid reg 51(2)(d) (as applied and modified: see note 10 supra).

14 Ibid reg 51(2)(e) (as applied and modified: see note 10 supra).

15 Ibid reg 51(3) (as applied and modified: see note 10 supra). In relation to England, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see para 591 note 2 ante. As to the requirements for documents to be in writing and signed see para 597 note 22 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(4)(a) (as applied and modified: see note 10 supra).

17 Ibid reg 51(4)(b) (as applied and modified: see note 10 supra).

18 Ibid reg 51(5)(a) (as applied and modified: see note 10 supra).

19 Ibid reg 51(5)(b) (as applied and modified: see note 10 supra).

20 Ibid reg 51(5) (as applied and modified: see note 10 supra).

21 Ibid reg 57(1) (amended by SI 2006/752; and applied and modified (see note 5 supra)).

22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(4) (as applied and modified: see note 5 supra). In the context of elections, a right of appeal lies to the county court only from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see para 189 et seq ante.

607. Record of persons entitled to vote by post as proxy at a referendum. The registration officer[1] must keep a record of those whose applications to vote by post as proxy at local authority referendums[2] (whether for an indefinite period or for a particular period specified in the application)[3] have been granted showing[4]: (1) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period)[5]; (2) whether the applications were in respect of referendums[6]; and (3) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent[7]. The registration officer must make a copy of the records so kept available for inspection at his office[8] and any person may make a copy (whether handwritten or by other means) of the whole or any part of them[9].

The registration officer must remove a person from the record so kept[10]: (a) if he applies to the registration officer to be removed[11], (b) if the elector[12] ceases to be registered in the register of local government electors[13]; (c) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed)[14]; or (d) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires[15].

1 As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante.

2 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante.

3 Ie a record of those whose applications have been granted under the Representation of the People Act 2000 Sch 4 para 7(4)(a) (as applied and modified) (see para 606 ante).
4 Ibid Sch 4 para 7(6) (as applied and modified: see note 2 supra).
5 Ibid Sch 4 para 7(6)(a)(ii) (as applied and modified: see note 2 supra).
6 Ibid Sch 4 para 7(6)(a)(i) (as applied and modified: see note 2 supra).
7 Ibid Sch 4 para 7(6)(b) (as applied and modified: see note 2 supra).
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(2) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'available for inspection' see para 598 note 9 ante.
9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(1) (renumbered by SI 2002/1871; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).
10 Representation of the People Act 2000 Sch 4 para 7(9) (as applied and modified: see note 2 supra).
11 Ibid Sch 4 para 7(9)(a) (as applied and modified: see note 2 supra). Such an application by a proxy to be removed from the record so kept must be disregarded for the purposes of a particular referendum if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that referendum (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 56(5) (amended by SI 2001/1700)); and where a registration officer disregards an application for the purposes of any particular referendum, he must notify the applicant of this (Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 57(5) (amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see para 597 notes 3, 7 ante.
12 For the meaning of 'elector' in this context see para 602 note 4 ante.
13 Representation of the People Act 2000 Sch 4 para 7(9)(b) (as applied and modified: see note 2 supra). The text refers to registration as mentioned in Sch 4 para 7(5)(a) (as applied and modified) (see para 606 ante).
14 Ibid Sch 4 para 7(9)(c) (as applied and modified: see note 2 supra).
15 Ibid Sch 4 para 7(9)(d) (as applied and modified: see note 2 supra).

608. Application in respect of a particular referendum by a proxy entitled to vote by post for an indefinite period or for a particular period. Where a person, who is included in the record kept of those entitled to vote by post as proxy either for an indefinite period or for a particular period[1] in respect of local authority referendums[2], applies to the registration officer[3] for his ballot paper in relation to a particular referendum to be sent to a different address from that shown in the record, the registration officer must grant the application if it meets the prescribed requirements[4].

Such an application[5] must state: (1) the full name of the applicant[6]; and (2) the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register[7]. In relation to England, an application must also set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to a different address from that shown in the record[8]. An application must identify the referendum in question[9] and must state that it is made for a particular referendum[10]. The application must be made in writing and must be signed and dated by the applicant[11]. Where the poll at one election or referendum falls on the same day as the poll at another election or referendum, the same application may be used for both[12].

Where the registration officer grants an application to vote by post, he must notify the applicant of his decision[13]; and where he refuses an application, he must notify the applicant of his decision and of the reason for it[14].

1 Ie a record kept under the Representation of the People Act 2000 s 12, Sch 4 para 7(6) (as applied and modified) (see para 607 ante).
2 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of ibid Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales

by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante.

3 As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante.

4 Representation of the People Act 2000 Sch 4 para 7(7) (as applied and modified: see note 2 supra). For these purposes, a reference to anything being prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k). Accordingly, the text refers to the requirements set out in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, Pt IV (regs 50–63) (as amended, applied and modified). An application under the Representation of the People Act 2000 Sch 4 para 7(7) (as applied and modified) must be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the referendum for which it is made; and where a registration officer disregards such an application for the purposes of any particular referendum, he must notify the applicant of this: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56(4), 57(5) (both amended by SI 2006/752). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 56, 57 (both as amended) are applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870. As to the computation of time for these purposes see para 597 notes 3, 7 ante.

5 Applications relating to absent voting must comply with such requirements as are relevant to the application: Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(1) (reg 51 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(a) (as applied and modified: see note 5 supra).

7 Ibid reg 51(2)(b) (amended by SI 2006/752; and applied and modified (see note 5 supra)); Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(2)(c) (as so applied and modified).

8 Ibid reg 51B (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5)(b) (as applied and modified: see note 5 supra).

10 Ibid reg 51(5)(a) (as applied and modified: see note 5 supra).

11 Ibid reg 51(3) (as applied and modified: see note 5 supra). In relation to England, the registration officer may satisfy himself that an application for an absent vote meets the requirement that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the counting officer: reg 51A (added by SI 2006/752; and applied and modified in relation to England by virtue of SI 2001/1298). For the meaning of 'counting officer' see para 591 note 2 ante. As to the requirements for documents to be in writing and signed see para 597 note 22 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 51(5) (as applied and modified: see note 5 supra).

13 Ibid reg 57(4A) (added by SI 2006/752; and applied and modified (see note 4 supra)).

14 Ibid reg 57(4) (as applied and modified: see note 4 supra). In the context of elections, a right of appeal lies to the county court only from certain decisions of the registration officer disallowing a person's application to vote by proxy or by post as elector: see para 189 et seq ante.

609. List of postal proxy voters at a referendum. The registration officer[1] must, in respect of each local authority referendum[2], keep a special list[3]: (1) of those who are for the time being included in the record kept of persons entitled to vote by post as proxy either for an indefinite period or for a particular period[4] in respect of referendums of the kind in question, together with the addresses provided by them in their applications[5] as the addresses to which their ballot papers are to be sent[6]; and (2) of those whose applications to vote by post as proxy at a particular referendum[7] have been granted in respect of the referendum concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent[8].

As soon as practicable after the sixth day[9] before the day of the poll at a referendum, the registration officer must publish the list of postal proxy voters by making a copy of it

available for inspection at his office[10] and any person may make a copy (whether handwritten or by other means) of the whole or any part of it[11].

1 As to the meaning of references to the registration officer for these purposes see para 597 note 1 ante.
2 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante.
3 Representation of the People Act 2000 Sch 4 para 7(8) (as applied and modified: see note 2 supra).
4 Ie a record kept under ibid Sch 4 para 7(6) (as applied and modified) (see para 607 ante).
5 Ie applications made under ibid Sch 4 para 7(4)(a) (as applied and modified) (see para 606 ante) or, as the case may be, under Sch 4 para 7(7) (as applied and modified) (see para 608 ante).
6 Ibid Sch 4 para 7(8)(a) (as applied and modified: see note 2 supra).
7 Ie a record of those whose applications have been granted under ibid Sch 4 para 7(4)(b) (as applied and modified) (see para 606 ante).
8 Ibid Sch 4 para 7(8)(b) (as applied and modified: see note 2 supra).
9 As to the computation of time for these purposes see para 597 note 7 ante.
10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(3)(a) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'available for inspection' see para 598 note 9 ante.
11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(1) (renumbered by SI 2002/1871; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

610. Voting by post as proxy at referendum. If a person is entitled to vote as proxy at a local authority referendum[1] (by being included in the relevant list[2] in respect of that referendum) he may vote by post[3]. Where a person is entitled to vote by post as proxy for the elector[4] at any referendum, the elector may not apply for a ballot paper for the purpose of voting in person at the referendum[5].

1 For the meaning of 'referendum' see para 576 note 2 ante; definition applied by virtue of the Representation of the People Act 2000 s 12, Sch 4 para 1 (Sch 4 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1 and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to the provisions that are so applied and modified see para 557 ante. As to the entitlement to vote as proxy at a local authority referendum see para 602 et seq ante.
2 Ie the list kept under the Representation of the People Act 2000 Sch 4 para 7(8) (as applied and modified) (see para 609 ante).
3 Ibid Sch 4 para 7(1), (3) (as applied and modified: see note 1 supra).
4 For the meaning of 'elector' in this context see para 602 note 4 ante.
5 Representation of the People Act 2000 Sch 4 para 7(2) (as applied and modified: see note 1 supra). To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter 'A' is placed against the name of that elector in any copy of the register, or part of it, provided for a polling station: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 62 (as applied and modified); and para 605 ante.

D. POLLING

(A) In general

611. Poll at referendum or poll to be taken by secret ballot. The votes at a local authority referendum[1] or at a poll consequent on a parish or community meeting[2] must be given by ballot[3]. A person who has voted at the referendum or poll (as the case may be) is not required, in any legal proceedings to question the referendum or poll, to state how or for whom he has voted[4].

The counting officer at a local authority referendum[5] or the returning officer at a poll consequent on a parish or community meeting[6] must make such arrangements as he thinks fit to ensure that: (1) every person attending at a polling station (otherwise than for the purpose of voting or assisting a blind voter to vote[7] or as a constable on duty there)[8]; and (2) every person attending at the counting of the votes (otherwise than as a constable on duty at the counting)[9], has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to attendance at a polling station or at the counting of votes (as the case may be)[10].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante.
3 Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (s 99 amended by the Local Government Act 1985 s 84, Sch 14 para 14; the Education Reform Act 1988 s 237, Sch 13 Pt I; the Police and Magistrates' Courts Act 1994 s 43, Sch 4 para 8; the Police Act 1996 s 103, Sch 7 para 1(2)(h); the Police Act 1997 s 88, Sch 6 para 3; the Greater London Authority Act 1999 s 325, Sch 27 para 26; and the Criminal Justice and Police Act 2001 ss 128(1), 137, Sch 6 paras 22, 25, Sch 7 Pt 5(1)); Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 13 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 13 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4). As to the provisions that are so applied and modified see para 557 ante.
4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 16 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 6. As to the provisions that are so applied and modified see para 557 ante.
5 For the meaning of 'counting officer' see para 591 note 2 ante.
6 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.
7 As to persons assisting voters on the grounds of blindness or other physical incapacity see para 628 post.
8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 25(a) (Sch 2 r 25 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(a). As to the provisions that are so applied and modified see para 557 ante. As to constables on duty see para 623 post.
9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 25(b) (as applied and modified: see note 8 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(b).
10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 25(a), (b) (as applied and modified: see note 8 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 13(a), (b). The text refers to: (1) for the purposes of those attending at a polling station, the requirement of secrecy set out in the Representation of the People Act 1983 s 66(1), (3), (6) (as amended, applied and modified) (see paras 742, 744 post); and (2) for the purposes of those attending the counting of the votes, the requirement of secrecy set out in s 66(2), (6) (as amended, applied and modified) (see para 743 post). At a poll consequent on a parish or community meeting, the provisions relating to the requirement of secrecy are subject to the adaptations, alterations and exceptions in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(e): Schedule r 13(a). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 25 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

612. The ballot papers and the official mark used at referendum or poll. The ballot of every voter at a local authority referendum[1] or at a poll consequent on a parish or community meeting[2] consists of a ballot paper, which must be in the prescribed form[3]. Every such ballot paper: (1) must be capable of being folded up[4]; (2) must have a number printed on the back[5]; and (3) must have attached a counterfoil with the same number printed on it[6].

Every ballot paper must be marked with an official mark, which must perforate the ballot paper[7]. The official mark must be kept secret[8].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante.

3 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 4(1), (2); and see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(1)–(4); and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(1)–(4).

As to the form of ballot paper appropriate to a poll consequent on a parish or community meeting as mentioned in the text see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of ballot papers on a question other than that of appointment to an office). Where such a poll is taken on any question other than appointment to any office, every ballot paper must state the question or questions on which the poll is to be taken: Schedule r 4(2)(b). The question or questions must appear in the space indicated in the form set out in Schedule Appendix (Form of ballot papers on a question other than that of appointment to an office). The ballot papers at such a poll must be printed in accordance with the prescribed directions: Schedule r 4(2). As to the directions so prescribed see Schedule Appendix of Forms (Directions as to printing the ballot paper). Where a poll on the question of appointment to any office and a poll on any other question are taken together, ballot papers of a different colour must be used for each poll: Schedule r 4(3). As to polls consequent on a parish meeting involving a question of appointment to any office see para 207 et seq ante.

Where the statement and the question to be asked in the local authority referendum are those set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 3, Sch 1 Pt I para 1 or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 3, Sch 1 Pt I para 1 (proposals involving a mayor and cabinet executive: see para 577 ante), the front of the ballot papers to be used in that referendum must be as set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt II (Form of front of ballot paper: Form A) or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt II (Form of front of ballot paper: Form A): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(1). Where the statement and the question to be asked in the local authority referendum are those set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 2 or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 2 (proposals involving a mayor and council manager executive: see para 577 ante), the front of the ballot papers to be used in that referendum must be as set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt II (Form of front of ballot paper: Form B) or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt II (Form of front of ballot paper: Form B): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(2). Where the statement and the question to be asked in the local authority referendum are those set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 3 or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 3 (proposals involving a leader and cabinet executive: see para 577 ante), the front of the ballot papers to be used in that referendum must be as set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt II (Form of front of ballot paper: Form C) or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt II (Form of front of ballot paper: Form C): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(3). The back of the ballot papers to be used in any referendum must be in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt III (Form of back of ballot paper) or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt III (Form of back of ballot paper): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(4).

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(c); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(5)(a).

5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(d); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(5)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(5)(b).

6 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 4(2)(e); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 9(5)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 9(5)(c).

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 15(1) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 15 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4).

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 15(2) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(2).

In relation to a local authority referendum, it is further specified that the official mark used for ballot papers issued for the purpose of voting by post must not be used for ballot papers issued for the purpose of voting in person: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 15(3) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). In relation to a poll consequent on a parish or community meeting, where there is no provision for absent voting (see para 596 ante), it is further specified that the same official mark must not be used at consecutive polls in the same parish or community: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 5(2).

613. Notice of poll at referendum or poll. Not later than the sixth day before the date of the local authority referendum[1] and not later than the fifth day before the day of the poll at a poll consequent on a parish or community meeting[2], the returning officer at such a poll[3] or the counting officer at such a referendum[4] must give public notice of the poll[5] which states[6]: (1) the day and hours fixed for the poll[7]; (2) the question to be asked[8]; and (3) the situation of each polling station and the description of the persons entitled to vote there[9].

1 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 18(2) (substituted in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'referendum' for these purposes see para 576 note 2 ante. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4). As to the provisions that are so applied and modified see para 557 ante. As to the computation of time for the purposes of a local authority referendum see para 578 note 1 ante.

2 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1. As to the computation of any period of time for these purposes see para 219 note 5 ante. As to how polls consequent on a parish or community meeting come about see para 586 ante.

3 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.

4 For the meaning of 'counting officer' see para 591 note 2 ante.

5 At a poll consequent on a parish or community meeting, the notice referred to in the text must refer to the parish or community meeting at which a poll was demanded: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18(1) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8. See note 1 supra.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18(1)(a) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(a). See note 1 supra. As to the date of a local authority referendum see para 578 ante; and as to the day of a poll consequent on a parish or community meeting taken on any question see para 587 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18(1)(b) (substituted in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(c). See note 1 supra. At a poll consequent on a parish or community meeting, head (2) in the text applies only if the poll is taken on any question other than

appointment to any office; and, in such a case, the name and address of the proposer of the resolution in respect of which the poll is being taken must be specified along with the particulars of the question: Schedule r 8(c). As to polls consequent on a parish meeting involving a question of appointment to any office see para 207 et seq ante.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 18(3) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 8(d). See note 1 supra.

614. Issue of official poll cards at referendum. The counting officer at a local authority referendum[1] must, as soon as practicable, send to electors and their proxies an official poll card[2]. However, such a card need not be sent to any person as an elector[3] if he is placed on the absent voters list[4] for the referendum or to any person as a proxy if he is entitled to vote by post as proxy[5] at the referendum[6]. An elector's official poll card must be sent or delivered to his qualifying address and a proxy's card to his address as shown in the list of proxies[7]. The official poll card must set out the name of the council and of the voting area[8], the elector's name, qualifying address and number on the register[9] and the date and hours of the poll and situation of the elector's polling station[10]. The official poll card must be in the prescribed form or a form to the like effect[11]. The issue of any poll card by any other means, or of any document so closely resembling an official poll card as to be calculated to deceive, is an offence and an illegal practice[12].

1 For the meaning of 'counting officer' see para 591 note 2 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 22(1) (Sch 2 r 22(1)–(4) applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 22 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. There is no provision for poll cards to be issued for the purposes of a poll consequent on a parish or community meeting (as to which see generally para 586 ante).

3 'Elector' means a person who is registered in the register of local government electors for the voting area in question on the last day for the publication of notice of the referendum; and includes a person then shown in the register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 5(7) (substituted by SI 2001/81); applied by virtue of the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 22(4) (as applied and modified: see note 2 supra). For the meaning of 'voting area' see para 582 note 2 ante. As to the register of local government electors see para 160 et seq ante; and as to publication of the notice of the referendum see para 578 ante.

4 As to the absent voters list see para 601 ante.

5 As to proxies entitled to vote by post see para 602 et seq ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 22(1) (as applied and modified: see note 2 supra).

7 Ibid Sch 2 r 22(2) (as applied and modified: see note 2 supra). As to the list of proxies see para 601 ante.

8 Ibid Sch 2 r 22(3)(a) (as applied and modified: see note 2 supra).

9 Ibid Sch 2 r 22(3)(b) (as applied and modified: see note 2 supra).

10 Ibid Sch 2 r 22(3)(c) (as applied and modified: see note 2 supra). As to the date of a local authority referendum see para 578 ante.

11 Ibid Sch 2 r 22(3) (as applied and modified: see note 2 supra). The form is set out in Sch 2 Appendix of Forms (elector's official poll card) (amended by SI 1990/158; SI 2006/390; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); or the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (proxy's official poll card) (amended by SI 1990/158; SI 2005/2114; SI 2006/390; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

12 See para 705 post.

(B) Votes given for Referendum or Poll at Polling Station

615. Provision and allotment of polling stations for use at referendum or poll. The counting officer at a local authority referendum[1] or the returning officer at a poll consequent on a parish or community meeting[2] must provide a sufficient number of polling stations[3] and allot the electors to the polling stations in such manner as he thinks most convenient, subject to the following requirements[4]. The polling station allotted to electors from any parliamentary polling district[5] wholly or partly within the electoral area[6] (in the case of such a referendum) or within the parish or community[7] (in the case of such a poll) must, in the absence of special circumstances, be in the parliamentary polling place for that district[8]. One or more polling stations may be provided in the same room[9]. However, the counting officer or returning officer (as the case may be) must also provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation[10].

The counting officer or returning officer (as the case may be) may use free of charge for the purpose of taking the poll or counting the votes: (1) a room in a school maintained or assisted by a local education authority[11] or a school in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school[12]; or (2) a room the expense of maintaining which is payable out of any rate[13]. The counting officer or returning officer (as the case may be) must make good any damage done to, and defray any expense incurred by the persons having control over, any such room by reason of its being used for the purpose of taking the poll or counting the votes[14].

1 For the meaning of 'counting officer' see para 591 note 2 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see para 593 ante.

3 Ie, at a poll consequent on a parish or community meeting, if more than one polling station is provided: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 9(1).

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 20(1) (Sch 2 r 20 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 20 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

5 As to parliamentary polling districts see para 348 et seq ante.

6 As to the meaning of 'electoral area' see para 10 ante.

7 As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq; and as to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 20(3) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(3).

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 20(2) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(2).

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 20(4) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 9(4).

11 As to local education authorities see EDUCATION vol 15(1) (2006 Reissue) para 20 et seq.

12 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17(1)(a) (amended by SI 2001/81; and the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1)(a). As to such schools as are mentioned in the text see EDUCATION vol 15(1) (2006 Reissue) para 102 et seq. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17 (as applied and modified) is further modified, in relation to

England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4). As to the provisions that are so applied and modified see para 557 ante.

13 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17(1)(b) (as applied and modified: see note 12 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(1)(b). For the purposes of determining rateable occupation, a hereditament is to be treated as unoccupied if it would otherwise be treated as occupied by reason only of the use of it by a person exercising functions of a counting officer, in relation to England, in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 11 and, in relation to Wales, in accordance with the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 11 (see para 591 ante) for the purpose of taking the poll in a local authority referendum: see the Local Government Finance Act 1988 s 65(6) (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 24; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 20); and see RATING AND COUNCIL TAX vol 39(1) (Reissue) para 614. For the meaning of 'hereditament' in this context see RATING AND COUNCIL TAX vol 39(1) (Reissue) para 634 et seq. At a poll consequent on a parish or community meeting, it is specified that the use of a room in an unoccupied house for such purpose or purposes as are mentioned in the text does not render a person liable to be rated or to pay any rate for the house: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(3).

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 17(2) (as applied and modified: see note 12 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 7(2).

616. Equipment of polling stations. The counting officer at a local authority referendum[1] or the returning officer at a poll consequent on a parish or community meeting[2] must provide each presiding officer[3] with such number of ballot boxes and ballot papers as in the counting officer's or returning officer's opinion (as the case may be) may be necessary[4]. Every ballot box must be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked[5].

The counting officer or returning officer (as the case may be) also must provide each polling station[6] with:

(1) materials to enable voters to mark the ballot papers[7];
(2) instruments for stamping on them the official mark[8];
(3) copies of the register of electors for the electoral area[9] (in the case of such a referendum) or for the parish or community[10] (in the case of such a poll) or such part of it as contains the names of the electors allotted to the station[11]; and
(4) (in the case of a referendum) the parts of any special lists[12] prepared for the referendum corresponding to the register of electors or the part of it provided under head (3) above[13].

A notice in the specified form, giving directions for the guidance of the voters in voting[14], must be printed in conspicuous characters and exhibited inside and outside every polling station[15]. In the case of a referendum, there must also be: (a) inside each polling station, at least one large version of the ballot paper, provided by the presiding officer and displayed for the assistance of voters who are partially-sighted[16]; and (b) in every compartment of every polling station[17], a notice which instructs voters how many votes they may give[18].

1 For the meaning of 'counting officer' see para 591 note 2 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see para 593 ante.

3 As to the appointment of presiding officers and their clerks see para 618 post.

4 Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215, r 5, Sch 2 r 23(1) (Sch 2 r 23 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 11(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23 (as amended, applied and

modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(2) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(2).

6 As to the provision and allotment of polling stations see para 615 ante.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3)(a) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(a).

The counting officer at a local authority referendum must also provide each polling station with a device of such description as may be prescribed for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3A)(b) (Sch 2 r 23(3A) added by SI 2001/81; and applied and modified (see note 4 supra)). Accordingly, the device referred to must be capable of being attached firmly to a ballot paper and of being removed from it after use without damage to the paper: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(6) (Sch 2 r 23(6)–(11) added by SI 2001/81; and applied and modified (see note 4 supra)). On the right-hand side of the device there must be tabs of equal size which:

(1) must all be capable of being positioned on the ballot paper so that each one is above one of the spaces to the right of the answers to the question on which the vote is to be marked (the 'relevant space') (Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(7), (8) (as so added, applied and modified));

(2) must be worded, with each word on a tab being in raised form and capable of being clearly identified by touch, so that, when the device is positioned over a ballot paper, the word on each tab corresponds to that of the answer which is to the left of the relevant space covered by the tab in question (Sch 2 r 23(7), (9), (10) (as so added, applied and modified)); and

(3) must each be capable of being lifted so as to reveal the relevant space and so that there is sufficient room to allow a voter to mark a cross on that space (Sch 2 r 23(7), (11) (as so added, applied and modified)).

8 Ibid Sch 2 r 23(3)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(b).

9 As to the meaning of 'electoral area' see para 10 ante.

10 As to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq; and as to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.

11 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3)(c) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(3)(c).

12 As to the special lists referred to in the text see para 601 ante.

13 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3)(d) (as applied and modified: see note 4 supra).

14 As to the form giving directions for the guidance of the voters in voting see the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (Form of directions for guidance of the voters in voting) (amended by SI 1987/261; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); and the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of directions for the guidance of the voters in voting where the poll is on a question other than that of appointment to an office).

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(4) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 11(4).

16 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 23(3A)(a) (as added, applied and modified: see notes 4, 7 supra).

17 As to the provision of compartments in polling stations see para 615 ante.

18 Local Elections (Parishes and Communities) Rules 1986, SI 1986/2215, Sch 2 r 23(5) (substituted in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870).

617. Loan of equipment provided for referendum or poll. Any ballot boxes, fittings and compartments provided for parliamentary elections[1] out of money provided by Parliament may, on request, be lent to: (1) the counting officer at a local authority referendum[2]; or (2) the returning officer at a poll consequent on a parish or community meeting[3], on such terms and conditions as the Secretary of State may determine[4]. Any ballot boxes, fittings and compartments provided by, or belonging to, a local authority within the meaning of the Local Government Act 1972[5], must, on request, and if not

required for immediate use by that authority, be lent to such a counting officer or such a returning officer (as the case may be) on such terms and conditions as may be agreed[6].

1 As to the equipment of polling stations for parliamentary elections see para 396 ante.
2 For the meaning of 'counting officer' see para 591 note 2 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 As to how polls consequent on a parish or community meeting come about see para 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see para 593 ante.
4 Representation of the People Act 1983 s 47(1) (amended by the Transfer of Functions (Returning Officers' Charges) Order 1991, SI 1991/1728, art 4; and the Representation of the People Act 1983 s 47 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1); Local Government Act 1972 s 99, Sch 12 para 21(1) (s 99 amended by the Local Government Act 1985 s 84, Sch 14 para 14; the Police and Magistrates' Courts Act 1994 s 43, Sch 4 Pt I para 8; the Police Act 1996 s 103, Sch 7 para 1(2)(h); the Police Act 1997 s 88, Sch 6 para 3; and the Greater London Authority Act 1999 s 325, Sch 27 para 26). As to the Secretary of State see para 2 ante. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Representation of the People Act 1983 s 47 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298 (see reg 10, Sch 4); and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870 (see reg 10, Sch 4). As to the provisions that are so applied and modified see para 557 ante.
5 For the meaning of 'local authority' for these purposes see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.
6 Representation of the People Act 1983 s 47(2) (amended by the Education Reform Act 1988 s 237, Sch 13 Pt I; and applied and modified (see note 4 supra)); Local Government Act 1972 Sch 12 para 21(2).

618. Appointment of presiding officers and clerks at referendum or poll. The counting officer at a local authority referendum[1] or the returning officer at a poll consequent on a parish or community meeting[2] must appoint and pay[3] a presiding officer to attend at each polling station[4]. He must also appoint and pay such clerks as may be necessary for the purposes of the poll or referendum[5]. The counting officer or returning officer (as the case may be) may, if he thinks fit, preside at a polling station[6].

A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised to do at a polling station except order the arrest, exclusion or removal of any person from the polling station[7].

1 For the meaning of 'counting officer' see para 591 note 2 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see para 593 ante.
3 At a poll consequent on a parish or community meeting, the remuneration of a presiding officer and clerks is discretionary: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 10(1).
4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 21(1) (Sch 2 r 21 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.
5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21(1) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(1). See note 4 supra.
6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21(2) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(2). The provisions relating to a presiding officer apply to a counting officer or returning officer (as the case may

be) so presiding with the necessary modifications as to things to be done by the counting officer or returning officer to the presiding officer or by the presiding officer to the counting officer or returning officer: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21(2) (as so applied and modified); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(2). See note 4 supra.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 21(3) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 10(3). See note 4 supra. As to the presiding officer's duty to keep order in a polling station see para 622 post.

619. Appointments for the counting of votes at referendum or poll. The counting officer at a local authority referendum[1]: (1) must appoint and pay such persons as may be necessary for the purpose of the counting of the votes[2]; and (2) must appoint persons to observe the counting of the votes and the verification of the ballot paper account ('counting observers')[3]. For the purpose of assisting the counting officer in the discharge of his functions under head (2) above, a petition organiser[4] may, not less than the fifth day before the date of the poll[5], by notice in writing to the counting officer, nominate persons who, in the opinion of the petition organiser, are suitable for appointment as counting observers; and the notice must also contain the address of each nominee[6]. The counting officer must not, without good cause, decline to appoint as a counting observer a person nominated by a petition organiser[7]. However, the counting officer may limit the number of counting observers so that the number is the same in the case of each petition organiser and the number allowed to a petition organiser is not (except in special circumstances) less than the number obtained by dividing the number of clerks employed on the counting by the number of petition organisers[8]. If a counting observer dies or becomes incapable of acting the counting officer may appoint another counting observer in his place[9].

A petition organiser may do any act or thing which any counting observer of his, if appointed, would have been authorised to do or may assist any such counting observer in doing any such act or thing[10]. Where any act or thing is required or authorised to be done by the appropriate rules[11] in the presence of the counting observers, the non-attendance of any such observer or observers at the time and place appointed for the purpose does not, if the act or thing is otherwise duly done, invalidate the act or thing done[12]. Any notice required to be given to a counting observer by the counting officer may be delivered at, or sent by post to, the address stated in the nomination[13].

1 For the meaning of 'counting officer' see para 591 note 2 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante. As to the facility afforded to candidates to appoint counting agents at a poll consequent on a parish meeting on a question of appointment to any office see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 12; and para 399 ante.

2 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(1)(a).

3 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(1)(b). 'Counting observer' means a person appointed by a counting officer, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(1)(b) or, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(1)(b): Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). See also note 8 infra.

4 'Petition organiser', in relation to a referendum, means a person who is treated, in relation to England, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 10(4) or, as the case may be, reg 10(5) and, in relation to Wales, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 10(4) or, as the case may be, reg 10(5) (formalities of petition: see para 565 ante) as the petition organiser of any valid petition (whether an amalgamated petition, a constituent petition or a post-announcement petition) received by the local authority by or in respect of which the referendum is held: Local Authorities (Conduct of Referendums) (England) Regulations 2001,

SI 2001/1298, reg 2(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1). For the meaning of 'valid petition' see para 561 note 3 ante; for the meaning of 'post-announcement petition' see para 563 note 7 ante; and for the meanings of 'amalgamated petition' and 'constituent petition' see para 564 note 6 ante.

5 As to the date of a local authority referendum see para 578 ante; and as to the computation of time for these purposes see para 578 note 1 ante.

6 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(2).

7 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(3).

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 24(4) (Sch 2 r 24(4), (6), (8)–(10), (12) applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the purposes of the calculation required as mentioned in the text, a counting observer who has been nominated by more than one petition organiser is a separate observer for each of the petition organisers by whom he has been nominated: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 24(4) (as so applied and modified). For the purposes of para 620 et seq post, references to counting observers must be taken as references to counting observers whose appointments have been duly made and, where the number of counting observers is restricted, who are within the permitted numbers: Sch 2 r 24(8) (as so applied and modified). As to the provisions that are so applied and modified see para 557 ante.

9 Ibid Sch 2 r 24(6) (as applied and modified: see note 8 supra).

10 Ibid Sch 2 r 24(10) (as applied and modified: see note 8 supra).

11 For the meaning of the 'appropriate rules' see para 595 note 2 ante.

12 Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 24(12) (as applied and modified: see note 8 supra).

13 Ibid Sch 2 r 24(9) (as applied and modified: see note 8 supra). The text refers to the nomination, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(2) or, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(2) (see the text and notes 4–6 supra).

620. Hours of polling at a referendum or poll. Except where the local authority[1] has made a determination[2] that the votes in the local authority referendum[3] may be cast only by postal ballot[4], the hours of polling must be between seven in the morning and ten in the evening on the day of the referendum[5].

Polling at a poll consequent on a parish or community meeting[6] takes place between the hours of four in the afternoon and nine at night on the day fixed for the poll[7].

1 As to references to the authority see para 576 note 3 ante.

2 Ie, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10(1) (see para 595 ante) and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10(1) (see para 595 ante).

3 For the meaning of 'referendum' see para 576 note 2 ante.

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 12(2) (substituted by SI 2006/752); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 12(2).

5 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 12(1) (amended by SI 2006/752); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 12(1).

6 As to how polls consequent on a parish or community meeting come about see para 586 ante.

7 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 1.

621. Sealing of ballot boxes at referendum or poll. Immediately before the commencement of the poll, the presiding officer[1] must show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and must then lock it up and place his seal on it in such manner as to prevent its being opened without breaking the seal, and must place it in his view for the receipt of ballot papers, and keep it so locked and sealed[2].

1 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.
2 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 28 (Sch 2 r 28 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 16. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 28 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

622. Keeping of order at referendum or poll; adjournment in case of riot. It is the duty of the presiding officer[1] to keep order at his polling station[2]. If a person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by a constable in or near that station, or by any other person authorised in writing by the counting officer (in relation to a local authority referendum)[3] or by the returning officer (in relation to a poll consequent on a parish or community meeting)[4] to remove him; and the person so removed may not, without the permission of the presiding officer, again enter the polling station during the day[5]. Any person so removed, may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant[6]. However, the powers of keeping order so conferred are not to be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station[7].

Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer must adjourn the proceedings until the following day[8] and forthwith give notice to the counting officer or to the returning officer (as the case may be)[9]. The hours of the poll on the day to which it is adjourned are the same as for the original day and references to the close of the poll are to be construed accordingly[10].

1 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.
2 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 27(1) (Sch 2 r 27 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 15(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 27 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante.
4 As to how polls consequent on a parish or community meeting come about see para 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see para 593 ante.
5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 27(2) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(2). The power to order the removal of any person may be exercised only by the presiding officer and not by one of the clerks appointed to assist him: see para 618 ante.
6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 27(3) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(3).
7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 27(4) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 15(4).
8 As to the computation of time for these purposes, in relation to a poll consequent on a parish or community meeting, see para 219 note 5 ante; and, in relation to a local authority referendum, see para 578 note 1 ante.
9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 36(1) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 24(1). In

relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 36 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 36(2) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 24(2). As to the normal procedure on close of poll see para 631 post.

623. Admission to polling station at referendum or poll. The presiding officer[1] must regulate the number of voters to be admitted to the polling station at the same time[2]. He must exclude all other persons except[3]: (1) any petition organiser in relation to a local authority referendum[4] or the proposer of the resolution in respect of which the poll consequent on a parish or community meeting is taken[5], as the case may be; (2) the polling observers appointed to attend at the polling station[6]; (3) the clerks appointed to attend at the polling station[7]; (4) the constables on duty[8]; (5) the companions of voters with disabilities[9]; and (6) at a local authority referendum, the elected mayor[10], if any, of the council in respect of which the referendum is held[11].

At a local authority referendum, each voter must vote at the polling station allotted to him[12] with the exception of constables on duty and persons employed by the counting officer[13], who may be admitted to vote in person elsewhere than at his own polling station, but only on production and surrender of a certificate as to his employment in the prescribed form, or a form to like effect[14]. The certificate must be signed by an officer of police of or above the rank of inspector or by the counting officer, as the case may be[15]. The certificate when surrendered must forthwith be cancelled[16].

The counting officer (in relation to a local authority referendum) or the returning officer[17] (in relation to a poll consequent on a parish or community meeting) must make such arrangements as he thinks fit to ensure that every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter who has an incapacity or as a constable on duty there) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance[18].

1 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.

2 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 26(1) (Sch 2 r 26 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 14. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(g) (as applied and modified: see note 2 supra). For the meaning of 'referendum' for these purposes see para 576 note 2 ante; and for the meaning of 'petition organiser' for these purposes see para 619 note 4 ante.

5 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(b). As to how polls consequent on a parish or community meeting come about see para 586 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(b) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(c). As to the appointment of polling observers at a referendum see para 591 ante.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(c) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(d). As to the clerks appointed to attend at the polling station see para 618 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(d) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(e).

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(e) (as applied and modified: see note 2 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 14(f). At a poll consequent on a parish or community meeting the reference in the text is to the companions of blind voters only: Schedule r 14(f). As to the companions of voters with disabilities see para 628 post.

10 For the meaning of 'elected mayor' see para 576 note 2 ante.

11 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(1)(f) (as applied and modified: see note 2 supra).

12 As to the allocation of polling stations see para 615 ante.

13 For the meaning of 'counting officer' see para 591 note 2 ante.

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(3) (as applied and modified: see note 2 supra). As to the form of certificate mentioned in the text see Sch 2 Appendix of Forms (Form of certificate of employment) (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). There is no such provision at a poll consequent on a parish or community meeting on a question not involving appointment to office.

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 26(3) (as applied and modified: see note 2 supra).

16 Ibid Sch 2 r 26(4) (as applied and modified: see note 2 supra).

17 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.

18 See paras 611 ante, 742–746 post.

624. Questions to be put to voters at a referendum or poll. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], the presiding officer[3] may put to any person applying for a ballot paper at the time of his application, but not afterwards, any of the prescribed questions[4]. A ballot paper must not be delivered to any person required to answer any of the prescribed questions unless he has answered the questions or question satisfactorily[5]. No inquiry, except as so authorised, is permitted as to the right of any person to vote[6].

If any person knowingly and wilfully makes a false answer to any of the prescribed questions, he is guilty of an indictable offence and may be punished accordingly[7].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante.

3 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29(1) (Sch 2 r 29 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 17(1). In relation to a local authority referendum, the prescribed questions as mentioned in the text are set out, in the case of a person applying to vote on his own behalf, in the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29(2) (as so applied and modified) and, in the case of a person applying as proxy, in Sch 2 r 29(2A), (2B) (as so applied and modified). At a poll consequent on a parish or community meeting on a question not involving appointment to office, the questions are set out in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(1). The function set out in the text may be discharged by a clerk appointed to assist the presiding officer: see para 618 ante. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office. As to voting by proxy at a referendum see para 602 et seq ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29(3) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(2).

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 29(4) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 17(3).

7 See the Perjury Act 1911 s 5 (false statutory declarations and other false statements without oath); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) para 717.

625. Voting procedure at a referendum or poll. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], a ballot paper must be delivered to a voter who applies for one and, immediately before delivery[3]:

(1) the ballot paper must be stamped with the official mark[4];

(2) the number and name of the elector as stated in the copy of the register of electors must be called out[5];

(3) the number of the elector must be marked on the counterfoil[6];

(4) a mark must be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received[7]; and

(5) in the case of a person applying for a ballot paper as proxy[8], a mark must also be placed against his name in the list of proxies[9].

On receiving the ballot paper, the voter must forthwith proceed into one of the compartments in the polling station and there secretly mark his paper[10]. The voter must then fold his paper up in such a way as to conceal his vote and he must then show to the presiding officer[11] the back of the paper, so as to disclose the official mark, and put the ballot paper so folded up in the ballot box in the presence of the presiding officer[12]. The voter must vote without undue delay and must leave the polling station as soon as he has put his ballot paper into the ballot box[13].

It is an offence to interfere or attempt to interfere with a voter when he is recording his vote[14].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante.

3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 31(1) (Sch 2 r 31 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 19(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(a) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(a). As to the official mark used at a referendum or poll see para 612 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(b).

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(c) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(c).

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(d) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(d).

8 There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly head (5) in the text does not apply in that case. As to voting by proxy at a referendum see para 602 et seq ante.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(1)(e) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(1)(e). As to the list of proxies see para 601 ante.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(2) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(2).

11 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.

12 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(2) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(2).

13 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 31(3) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 19(3).

14 See para 744 post.

626. Challenge of voter at a referendum or poll. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], if, at the time a person applies for a ballot paper for the purpose of voting in person or after he has applied for a ballot paper for that purpose and before he has left the polling station, any petition organiser[3] or polling observer permitted to be present[4] declares to the presiding officer[5] that he has reasonable cause to believe that the applicant has committed an offence of personation[6] and undertakes to substantiate the charge in a court of law[7], the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer is sufficient authority for the constable so to do[8]. The person who has been challenged must not by reason of it be prevented from voting[9]. A person who is arrested is to be dealt with as a person taken into custody by a constable for an offence without a warrant[10].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante.
3 For the meaning of 'petition organiser' see para 619 note 4 ante.
4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(1) (Sch 2 r 30 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 18(1). Polling observers are permitted to be present at a referendum as mentioned in the text in accordance with the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 26(1) (as applied and modified) (see para 623 ante). As to the appointment of polling observers at a referendum see para 591 ante. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.
5 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.
6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(1)(a) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(1)(a). As to the offence of personation see para 733 post.
7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(1)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(1)(b).
8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(1) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(1).
9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(2) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(2).
10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 30(3) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 18(3).

627. Ballot papers marked by presiding officer at a referendum or poll. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], on the application of a voter who is incapacitated by blindness or other physical cause from voting in the manner directed by the rules[3], or who declares orally that he is unable to read, the presiding officer[4] must, in the presence of the polling observers (if any)[5], cause the vote of the voter to be marked on a ballot paper in manner directed by the voter, and the ballot paper to be placed in the ballot box[6].

The name and number[7] on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, must be entered on a list which is called the 'list of votes marked by the presiding officer'[8]. However, this is subject to the proviso, in the case of a person voting as proxy for an elector[9], that the number to be entered together with the name of the voter must be the number of the elector[10].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante.

3 Ie, in relation to a local authority referendum, by the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 (as applied and modified) (as to which see para 557 ante) or, at a poll consequent on a parish or community meeting, by the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule (as to which see para 558 ante).

4 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.

5 As to the appointment of polling observers at a referendum see para 591 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 32(1) (Sch 2 r 32 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 20(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 32 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

7 As to the number of an elector see para 160 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 32(2) (as applied and modified: see note 6 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 20(2).

9 As to voting by proxy at a referendum see para 602 et seq ante.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 32(2) proviso (as applied and modified: see note 6 supra). There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly the provision set out in the text does not apply in that case.

628. Voting at a referendum or poll by persons with disabilities. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], if a voter makes an application to the presiding officer[3] to be allowed, on the ground of blindness or other physical incapacity or inability to read[4], to vote with the assistance of another person by whom he is accompanied (called the 'companion'), the presiding officer must require the voter to declare, orally or in writing[5], whether he is so incapacitated by his blindness or other incapacity, or by his inability to read[6], as to be unable to vote without assistance[7].

If the presiding officer is satisfied that the voter is so incapacitated, and is also satisfied by a written declaration made by the companion of the voter with disabilities[8] that the companion is a qualified person and has not previously assisted more than one voter with disabilities[9] to vote at the referendum or poll, he must grant the application, and then anything required to be done to or by the voter in connection with the giving of his vote may be done to, or with the assistance of, the companion[10]. The name and number in the register of electors[11] of every voter whose vote is given by a companion, and the name and address of the companion[12], must be entered on a list (which is called the 'list of voters with disabilities assisted by companions' in the case of a local authority referendum or the 'list of blind voters assisted by companions' in the case of a poll consequent on a parish or community meeting)[13]. The declaration made by the companion must be in the prescribed form[14] and must be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and must forthwith be given to the presiding officer who must attest and retain it[15]. No fee or other payment may be charged in respect of the declaration[16].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante.

3 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.

4 At a poll consequent on a parish or community meeting on a question not involving appointment to office, the provision set out in the text applies only to voters with blindness and, accordingly, in relation to such a poll all references to other physical incapacities or an inability to read must be ignored (although a voter who is unable to read may vote at such a poll with the assistance of the presiding officer: see para 627 ante): see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 21(1).

5 At a poll consequent on a parish or community meeting on a question not involving appointment to office, the reference to the declaration being made orally or in writing is omitted: see ibid Schedule r 21(1).

6 See note 4 supra.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 33(1) (Sch 2 r 33 substituted by SI 2001/81; and the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

8 For the purposes of a local authority referendum, a person is a voter with disabilities if he has made such a declaration as is mentioned in the text; and a person is qualified to assist a voter with disabilities to vote if that person is a person who is entitled to vote as an elector at the referendum or is the father, mother, brother, sister, spouse, civil partner, son or daughter of the voter and has attained the age of 18 years: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(3) (Sch 2 r 33 as substituted, applied and modified (see note 7 supra); and Sch 2 r 33(3) amended by SI 2005/2114). For the purposes of a poll consequent on a parish or community meeting on a question not involving appointment to office, a person is qualified to assist a blind voter to vote if that person is either a person who is entitled to vote at the poll or the father, mother, brother, sister, spouse, civil partner, son or daughter of the blind voter and has attained the age of 18 years: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(3) (amended by SI 2005/2114).

9 See note 4 supra.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(2) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(2).

11 As to the registers of electors and the number of an elector see para 160 ante.

12 In the case of a person voting as proxy for an elector, the number to be entered together with the name of the voter must be the number of the elector: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(4) (as substituted, applied and modified: see note 7 supra). As to voting by proxy at a referendum see para 602 et seq ante. There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly this provision does not apply in that case.

13 Ibid Sch 2 r 33(4) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(4).

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(5)(a) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(5)(a). The prescribed form is set out, in relation to a local authority referendum, in the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (Form of declaration to be made by the companion of a voter with disabilities) (amended by SI 2001/81; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). In relation to a poll consequent on a parish or community meeting on a question not involving appointment to office, the prescribed form is set out in the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule Appendix of Forms (Form of declaration to be made by the companion of a blind voter).

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(5)(b) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(5)(b).

16 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 33(6) (as substituted, applied and modified: see note 7 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 21(6).

629. Tendered ballot papers at a referendum or poll. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], if a person who represents himself to be a particular elector named on the register[3] applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant, on satisfactorily answering the questions permitted by law to be asked at the poll[4], is entitled to mark a ballot paper (called a 'tendered ballot paper') in the same manner as any other voter[5].

A tendered ballot paper must be of a colour differing from the other ballot papers[6] and, instead of being put into the ballot box, it must be given to the presiding officer[7] and endorsed by him with the name of the voter and his number in the register of electors[8], and set aside in a separate packet[9]. The name of the voter and his number on the register of electors must be entered[10] on a list (called the 'tendered votes list')[11].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante.
3 As to the registers of electors see para 160 ante. In the case of a local authority referendum, the provision set out in the text applies to a person who represents himself to be a particular elector named on the register and who is not named in the absent voters list or, alternatively, to a person who represents himself to be a particular person named in the list of proxies as proxy for an elector and who is not entitled to vote by post as proxy: see the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 34(1) (Sch 2 r 34 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the absent voters list and the list of proxies see para 601 ante; and as to the entitlement to vote by post as proxy see para 595 et seq ante. There is no provision for absent voting at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly the qualifications relating to absent voting do not apply in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 22(1).
4 As to the questions that may be put to person applying for a ballot paper see para 624 ante.
5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34(1) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.
6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34(2)(a) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(2)(a). As to the provisions relating to ballot papers generally see para 612 et seq ante.
7 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.
8 As to the number of an elector see para 160 ante. In the case of a person voting as proxy for an elector, the number to be endorsed together with the name of the voter must be the number of that elector: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34(4) (as applied and modified: see note 3 supra). There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly this provision does not apply in that case.
9 Ibid Sch 2 r 34(2)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(2)(b).
10 In the case of a person voting as proxy for an elector, the number to be entered on the list together with the name of the voter must be the number of that elector: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 34(4) (as applied and modified: see note 3 supra). There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly this provision does not apply in that case.
11 Ibid Sch 2 r 34(3) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 22(3).

630. Spoilt ballot papers at a referendum or poll. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], a voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer[3] and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in place of the ballot paper so delivered (the 'spoilt ballot paper')[4]. The spoilt ballot paper must be immediately cancelled[5].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante.
3 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.
4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 35 (Sch 2 r 35 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and

Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 23. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 35 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 35 (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 23.

631. Procedure on close of poll at a referendum or poll. As soon as practicable after the close of the poll at a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], the presiding officer[3] must, in the presence of the polling observers (if any)[4], make up into separate packets, sealed with his own seal and the seals of such polling observers (if any) as desire to affix their seals[5]:

(1) each ballot box in use at his station, sealed so as to prevent the introduction of additional ballot papers and unopened (but with the key attached)[6];
(2) the unused and spoilt ballot papers, placed together[7];
(3) the tendered ballot papers[8];
(4) the marked copies of the register of electors and (in the case of a referendum) of the list of proxies[9];
(5) the counterfoils of the used ballot papers and (in the case of a referendum) the certificates as to employment on duty on the day of the poll[10]; and
(6) the tendered votes list[11], the list of voters with disabilities assisted by companions[12], the list of votes marked by the presiding officer[13], a statement of the number of voters whose votes are so marked by the presiding officer under the heads 'physical incapacity' and 'unable to read', and the declarations made by the companions of voters with disabilities[14].

The presiding officer must deliver the packets or cause them to be delivered to the counting officer[15] (in relation to a local authority referendum) or to the returning officer[16] (in relation to a poll consequent on a parish or community meeting), to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the counting officer or to the returning officer (as the case may be), the arrangements for their delivery require the approval of that counting officer or that returning officer (as the case may be)[17].

The marked copies of the register of electors and (in the case of a referendum) of the list of proxies must be in one packet but must not be in the same packet as the counterfoils of the used ballot papers and (in the case of a referendum) the certificates as to employment on duty on the day of the poll[18]. The packets must be accompanied by a statement (the 'ballot paper account') made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused ballot papers, spoilt ballot papers, and tendered ballot papers[19].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante.

3 As to the appointment of presiding officers and clerks at a referendum or poll see para 618 ante.

4 As to the appointment of polling observers at a referendum see para 591 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 37(1) (Sch 2 r 37 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 25(1). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37 (as applied and modified) is omitted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England)

Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(a) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(a).

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(b) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(b). As to spoilt ballot papers see para 630 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(c) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(c). As to tendered ballot papers see para 629 ante.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(d) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(d). As to the procedure for marking copies of voter records see para 625 ante. There is no provision for voting by proxy at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly the reference to the list of proxies in head (4) in the text does not apply in such a case. As to the list of proxies see para 601 ante.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(e) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(e). There is no provision for certificates as to employment on duty at a poll consequent on a parish or community meeting on a question not involving appointment to office and accordingly the reference to such certificates in head (5) in the text does not apply in such a case. As to certificates of employment on duty on the day of the poll see para 623 ante.

11 As to the tendered votes list see para 629 ante.

12 As to the list of voters with disabilities assisted by companions see para 628 ante.

13 As to the list of votes marked by the presiding officer see para 627 ante.

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1)(f) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1)(f). As to declarations made by the companions of voters with disabilities see para 628 ante. At a poll consequent on a parish or community meeting on a question not involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other physical incapacities must be ignored in relation to such a poll, albeit that the statement of the number of voters whose votes are marked by the presiding officer contains the head 'physical incapacity' rather than 'blindness': see Schedule r 25(1)(f).

15 For the meaning of 'counting officer' see para 591 note 2 ante.

16 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.

17 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(1) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(1).

18 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(2) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(2). At a poll consequent on a parish or community meeting on a question not involving appointment to office, there is no provision either for voting by proxy (see note 9 supra) or for certificates as to employment on duty (see note 10 supra) and accordingly the provision set out in the text is limited in such a case to requiring that the marked copy of the register of electors must not be in the same packet as the counterfoils of the used ballot papers: Schedule r 25(2).

19 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 37(3) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 25(3).

(C) Votes given by Postal Ballot at a Local Authority Referendum

(a) Issue of Postal Ballot Papers at a Local Authority Referendum

632. Counting officer's duty to issue postal ballot papers, etc at local authority referendum. At a local authority referendum[1], the counting officer[2] must issue to those entitled to vote by post[3] a postal ballot paper and a declaration of identity in the appropriate form or forms to like effect[4], together with such envelopes for their return (whether free of charge or otherwise) as may be so prescribed[5].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 For the meaning of 'counting officer' see para 591 note 2 ante.

3 As to applications made for absent voting see para 597 et seq ante.

4 The form used for the purposes of a local authority referendum is set out in the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (Form of declaration of identity) (amended by SI 1987/261; SI 2004/223; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 Appendix of Forms (Form of declaration of identity) (as amended, applied and modified) is further modified: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

As to the form to be used where the poll at a local authority referendum in England is combined with the poll at another election or referendum see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 66(b), Sch 3 (Form H: declaration of identity for use when postal ballots are combined) (substituted by SI 2004/294; and applied and modified in relation to England by SI 2001/1298); and as to the form to be used where the poll in England is taken together with the poll at another election or referendum but where the proceedings on the issue and receipt of postal ballot papers are not (as to which see para 635 et seq post) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 66(c), Sch 3 (Form J: declaration of identity for use when polls are combined but the postal ballots are not combined) (amended by SI 2004/294; and applied and modified in relation to England by SI 2001/1298).

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 19 (substituted by SI 2001/81; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the marking of the envelopes and the addresses to be used see para 637 post. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 19 (as substituted, applied and modified) is further substituted: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

There is no equivalent provision for postal voting in relation to a poll consequent on a parish or community meeting: see para 586 et seq ante.

633. Notification of requirement of secrecy at proceedings relating to the issue of postal ballot papers at local authority referendum. The counting officer[1] at a local authority referendum[2] must make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue[3] of postal ballot papers[4] has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to those proceedings[5].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 As to proceedings on the issue of postal ballot papers see para 634 et seq post.
4 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 70 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. The text refers to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(4), (6) (as amended, applied and modified) (see para 745 post).

634. Time of issue of postal ballot papers, etc at local authority referendum. At a local authority referendum[1], the postal ballot paper[2] and declaration of identity must be issued by the counting officer[3] as soon as practicable after the registration officer[4] has granted the application to vote by post[5], except where a person is shown in the records kept of those entitled (for a defined period or for an indefinite period) to an absent vote at referendums[6] or to vote by post as proxy at referendums[7], in which two cases no postal ballot paper and declaration of identity may be issued until after 5 pm on the eleventh day before the date of the poll[8].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante. As to the counting officer's duty to issue postal ballot papers, etc see para 632 ante.
4 For the meaning of 'registration officer' see para 154 note 1 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71(2) (reg 71 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. As to applications to vote by post see para 597 et seq ante.
6 Ie the record kept under the Representation of the People Act 2000 Sch 4 para 3(4) (as applied and modified) (see para 598 ante).
7 Ie the record kept under ibid Sch 4 para 7(6) (as applied and modified) (see para 607 ante).
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 71(1) (as applied and modified: see note 5 supra). As to the computation of time for these purposes see para 597 note 7 ante (provisions applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

635. Proceedings on the issue of postal ballot papers at local authority referendum. At a local authority referendum[1], no person may be present at the proceedings on the issue of postal ballot papers[2] other than the counting officer[3] and his clerks[4]. The following procedure must be followed:

(1) each postal ballot paper issued must be stamped with the official mark[5];
(2) the number of the elector[6] as stated in the register must be marked on the counterfoil attached to the ballot paper[7];
(3) a mark must be placed in the absent voters list[8] or the list of postal proxies[9] against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy, but without showing the particular ballot paper issued[10]; and
(4) the number of a postal ballot paper must be marked on the declaration of identity sent with that paper[11].

Where the poll at a referendum is taken with the poll at another election or referendum, special provision is made for the issue of postal ballot papers[12].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante.
4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 67 (reg 67 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(1) (reg 72 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the official mark used at a referendum or poll see para 612 ante. As to the provisions that are so applied and modified see para 557 ante.
6 As to the number of an elector see para 160 ante.
7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(2) (as applied and modified: see note 5 supra).

8 For the meaning of 'absent voters list' see para 414 note 9 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

9 For the meaning of 'list of postal proxies' see para 414 note 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(3) (as applied and modified: see note 5 supra).

11 Ibid reg 72(4) (as applied and modified: see note 5 supra).

12 Ibid reg 72(5), (6) (as applied and modified: see note 5 supra).

636. Refusal to issue more than one postal ballot paper at local authority referendum. At a local authority referendum[1], where the counting officer[2] is satisfied that two or more entries in either the absent voters list[3] or the list of postal proxies[4] or in each of those lists relate to the same elector, he must not issue more than one ballot paper[5] in respect of the same elector in respect of any one referendum[6].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 For the meaning of 'counting officer' see para 591 note 2 ante.

3 For the meaning of 'absent voters list' see para 414 note 9 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.

4 For the meaning of 'list of postal proxies' see para 414 note 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

5 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 73 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.

637. Envelopes issued to postal voter at local authority referendum. At a local authority referendum[1], an envelope marked with the letter 'B' (a 'covering envelope'[2]) must be issued to a postal voter[3] by the counting officer[4] for the return of the postal ballot paper (or ballot papers, as the case may be)[5] and the declaration of identity also issued to him[6]. The counting officer must also issue to a postal voter a smaller envelope (a 'ballot paper envelope'[7]) which must be marked with the letter 'A', the words 'ballot paper envelope' and the number of the ballot paper or, as the case may be, ballot papers[8].

The address to which the postal ballot paper, declaration of identity and the envelopes are to be sent is, in the case of an elector, the address shown in the absent voters list[9] or, in the case of a proxy, the address shown in the list of postal proxies[10].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 For the meaning of 'covering envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.

3 For the meaning of 'postal voter' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298,

reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

4 For the meaning of 'counting officer' see para 591 note 2 ante.

5 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). There will be more than one ballot paper when the proceedings on the issue and receipt of postal ballot papers at more than one referendum or election have been taken together (as to which see para 20 ante); as to special provision made for the marking of the envelopes used where the poll at one referendum or election is taken with the poll at another referendum or election see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(4) (reg 74(4) applied and modified in relation to England by SI 2001/1298). As to the provisions that are so applied and modified see para 557 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(1), (2) (reg 74 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. The text refers to the ballot paper and the declaration of identity which are issued to a postal voter under the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 19 (as substituted, applied and modified) (see para 632 ante).

7 For the meaning of 'ballot paper envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 74(3) (as applied and modified: see note 6 supra).

9 For the meaning of 'absent voters list' see para 414 note 9 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72(7) (added by SI 2002/1871; amended by SI 2006/752; and applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'list of postal proxies' see para 414 note 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.

638. Delivery of postal ballot papers at local authority referendum. At a local authority referendum[1], for the purposes of delivering postal ballot papers[2], the counting officer[3] may use: (1) a universal postal service provider[4]; (2) a commercial delivery firm[5]; or (3) clerks appointed by a counting officer to aid a presiding officer[6]. Except where head (3) above applies, postage must be pre-paid on the envelopes addressed to the postal voters[7]; and where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom[8], return postage must be pre-paid on all covering envelopes also[9]. Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters must be counted and delivered by the counting officer with such form of receipt to be endorsed by that provider or firm as may be arranged[10].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante. There will be more than one ballot paper when the proceedings on the issue and receipt of postal ballot papers at more than one referendum or election have been taken together (as to which see para 20 ante).

3 For the meaning of 'counting officer' see para 591 note 2 ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(a) (reg 76 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. For the meaning of 'universal postal service provider' see para 417 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(1)(b) (as applied and modified: see note 4 supra).
6 Ibid reg 76(1)(c) (as applied and modified: see note 4 supra). As to the appointment of presiding officers and their clerks see para 618 ante.
7 Ibid reg 76(3) (as applied and modified: see note 4 supra). For the meaning of 'postal voter' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
8 For the meaning of 'United Kingdom' see para 13 note 1 ante.
9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 76(4) (as applied and modified: see note 4 supra).
10 Ibid reg 76(2) (as applied and modified: see note 4 supra).

639. Sealing up of counterfoils and security of special lists at local authority referendum. At a local authority referendum[1], as soon as practicable after the issue of each batch of postal ballot papers[2], the counting officer[3] must make up into a packet the counterfoils of those ballot papers which have been issued and he must seal the packet[4]. As soon as practicable after the last batch of postal ballot papers has been issued, the counting officer must make up into a packet the marked copy of the absent voters list[5] and the list of postal proxies[6] and he must seal the packet[7]. Until the time when the last batch of postal ballot papers has been issued, the counting officer must take proper precautions for the security of the absent voters list and the list of postal proxies[8].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante. There will be more than one ballot paper when the proceedings on the issue and receipt of postal ballot papers at more than one referendum or election have been taken together (as to which see para 20 ante).
3 For the meaning of 'counting officer' see para 591 note 2 ante.
4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75(1) (reg 75 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.
5 For the meaning of 'absent voters list' see para 414 note 9 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
6 For the meaning of 'list of postal proxies' see para 414 note 10 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75(2) (as applied and modified: see note 4 supra).
8 Ibid reg 75(3) (as applied and modified: see note 4 supra).

640. Instructions for voting by post at local authority referendum. In order to vote at a local authority referendum[1], a postal voter[2] is instructed[3] to:

(1) sign the declaration of identity in the presence of a person known to him, who then must sign the declaration as a witness, adding his or her name and address;
(2) record his vote on the ballot paper, according to the instructions given;

(3) put the ballot paper in the small envelope marked 'A' and seal it, then put the envelope marked 'A', together with the declaration of identity, in the larger envelope marked 'B' and return it without delay, so that it is received by the counting officer not later than the close of the poll[4].

The voter is reminded that if he receives more than one ballot paper for the same referendum it is illegal to vote more than once (otherwise than as proxy) at the same referendum and that, at the election in question, he cannot vote in person at a polling station, even if he receives an official poll card[5].

Instructions are also given in the event of a postal voter inadvertently spoiling the ballot paper[6].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For the meaning of 'postal voter' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
3 These instructions appear on the form of the declaration of identity (as to which see para 632 ante), the precise wording of which may vary according to whether the poll at the referendum is taken together with the poll at another election or referendum or not (as the case may be).
4 See note 3 supra.
5 See note 3 supra.
6 See note 3 supra.

641. Spoilt postal ballot papers at local authority referendum. At a local authority referendum[1], if a postal voter[2] has inadvertently dealt with his postal ballot paper[3] in such manner that it cannot conveniently be used as a ballot paper or if he has inadvertently dealt with his declaration of identity in such a manner that it cannot be conveniently used as a declaration of identity, he may return the spoilt ballot paper[4] or, as the case may be, the spoilt declaration of identity either by hand or by post to the counting officer[5]. On receipt of any such documents, the counting officer must issue another postal ballot paper (or, as the case may be, ballot papers) except where those documents are received after 5 pm on the day of the poll[6], in which case he may only issue another postal ballot paper (or, as the case may be, ballot papers) if the postal voter returned the documents by hand[7]. Any such postal ballot paper or declaration of identity, whether spoilt or not, which has been returned must be immediately cancelled[8]; and, as soon as practicable after cancelling those documents, the counting officer must make up those documents in a separate packet and he must seal the packet[9]. If, on any subsequent occasion, documents are cancelled in this way, the sealed packet must be opened and the additional cancelled documents included in it and the packet must be again made up and sealed[10].

The counting officer must enter in a list kept for the purpose (the 'list of spoilt postal ballot papers'): (1) the name and number of the elector as stated in the register[11]; (2) the number of the replacement postal ballot paper (or papers) issued[12]; and (3) where the postal voter whose ballot paper is spoilt is a proxy[13], his name and address[14].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For the meaning of 'postal voter' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
3 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). There will be more than

one ballot paper when the proceedings on the issue and receipt of postal ballot papers at more than one referendum or election have been taken together (as to which see para 20 ante); and as to special provision made for spoilt ballot papers when the polls at more than one referendum or election have been taken together see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(2) (reg 77(1), (2) substituted by SI 2006/752; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(2) applied and modified in relation to England by SI 2001/1298). As to the provisions that are so applied and modified see para 557 ante.

4 For the meaning of 'spoilt ballot paper' see para 420 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(1) (reg 77(1) as substituted (see note 3 supra); and reg 77(1), (3)–(8) applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'counting officer' see para 591 note 2 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(3) (amended by SI 2006/752; and applied and modified (see note 5 supra)). Certain provisions as to the issue of postal ballot papers, namely the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72 (as amended, applied and modified) (except reg 72(3) (as applied and modified)) (see para 635 ante) and, subject to reg 77(7) (as substituted, applied and modified) (see note 7 infra), regs 74–76 (as applied and modified) (see paras 637–639 ante), apply to the issue of replacement postal ballot papers: reg 77(4) (as so applied and modified).

7 Ibid reg 77(3A) (added by SI 2006/752; and applied and modified (see note 5 supra)). The counting officer may hand a replacement postal ballot paper to a postal voter who applies in person by 5 pm on the day before the day of the poll (and he may only hand a replacement postal ballot paper to a postal voter who applies in person after 5 pm on the day before the day of the poll) instead of delivering it in accordance with the statutory scheme (as to which see para 638 ante): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(7) (substituted by SI 2006/752; and applied and modified (see note 5 supra)).

8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(5) (substituted by SI 2006/752; and applied and modified (see note 5 supra)).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(6) (as applied and modified: see note 5 supra).

10 Ibid reg 77(6) (as applied and modified: see note 5 supra).

11 Ibid reg 77(8)(a) (as applied and modified: see note 5 supra).

12 Ibid reg 77(8)(b) (as applied and modified: see note 5 supra).

13 As to applications to vote by proxy see para 597 et seq ante.

14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 77(8)(c) (as applied and modified: see note 5 supra).

642. Lost postal ballot papers at local authority referendum. At a local authority referendum[1], where a postal voter[2], by the fourth day before the day of the poll, claims either to have lost or not to have received his postal ballot paper[3] or the declaration of identity[4] or one or more of the envelopes supplied for their return[5], he may apply (whether or not in person) to the counting officer[6] for a replacement ballot paper[7]. The voter must include evidence of his identity with any such application[8].

Where a postal voter exercises his entitlement to a replacement ballot paper, he must return the other documents which he has received and which have not been lost[9]. Any such postal ballot paper or declaration of identity which has been returned must be immediately cancelled[10]; and, as soon as practicable after cancelling those documents, the counting officer must make up those documents in a separate packet and he must seal the packet[11]. If, on any subsequent occasion, documents are cancelled in this way, the sealed packet must be opened and the additional cancelled documents included in it and the packet must be again made up and sealed[12].

Where the application for a replacement ballot paper is received by the counting officer before 5 pm on the day of the poll and the counting officer is satisfied as to the voter's identity and he has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper (or the declaration of identity or one or

more of the envelopes provided for their return), he must issue another postal ballot paper or, as the case may be, postal ballot papers[13]. However where the application is received by the counting officer after 5 pm on the day before the day of the poll, he may only issue another postal ballot paper or, as the case may be, other ballot papers if the postal voter applied in person[14].

The counting officer must enter in a list kept for the purpose (the 'list of lost postal ballot papers'): (1) the name and number of the elector[15] as stated in the register[16]; (2) the number of the replacement postal ballot paper issued[17]; and (3) where the postal voter whose ballot paper is lost is a proxy[18], his name and address[19].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 For the meaning of 'postal voter' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(a) (reg 78(1) substituted by SI 2006/752; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1)(b) (as substituted, applied and modified: see note 3 supra).

5 Ibid reg 78(1)(c) (as substituted, applied and modified: see note 3 supra). As to the envelopes provided for use in postal voting see para 637 ante.

6 For the meaning of 'counting officer' see para 591 note 2 ante.

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(1) (as substituted, applied and modified: see note 3 supra).

8 Ibid reg 78(2) (as applied and modified: see note 3 supra).

9 Ibid reg 78(2A)(a) (reg 78(2A)–(2C) added by SI 2006/752; and applied and modified (see note 3 supra)). As to special provision made for lost ballot papers when the polls at more than one referendum or election have been taken together (as to which see para 20 ante) see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(2A)(b) (reg 78(2A) as so added, applied and modified). As to the provisions that are so applied and modified see para 557 ante.

10 Ibid reg 78(2B) (as added, applied and modified: see notes 3, 9 supra).

11 Ibid reg 78(2C) (as added, applied and modified: see notes 3, 9 supra).

12 Ibid reg 78(2C) (as added, applied and modified: see notes 3, 9 supra).

13 Ibid reg 78(3) (amended by SI 2006/752; and applied and modified (see note 3 supra)). There may be more than one ballot paper when the polls at more than one referendum or election have been taken together (as to which see para 20 ante). Certain provisions as to the issue of postal ballot papers, namely the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 72 (as amended, applied and modified) (except reg 72(3) (as applied and modified)) (see para 635 ante) and, subject to reg 78(6) (as substituted, applied and modified) (see note 14 infra), regs 74–76 (as applied and modified) (see paras 637–639 ante), apply to the issue of replacement postal ballot papers: reg 78(5) (as applied and modified).

14 Ibid reg 78(3A) (added by SI 2006/752; and applied and modified (see note 3 supra)). Instead of delivering a replacement postal ballot paper in accordance with the statutory scheme (as to which see para 638 ante), the counting officer may hand such a replacement to a postal voter who applies in person by 5 pm on the day before the day of the poll (and he may only hand a replacement postal ballot paper to a postal voter who applies in person after 5 pm on the day before the day of the poll): Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(6) (substituted by SI 2006/752; and as so applied and modified).

15 As to the number of an elector see para 160 ante.

16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(a) (as applied and modified: see note 3 supra).

17 Ibid reg 78(4)(b) (as applied and modified: see note 3 supra).

18 As to applications to vote by proxy see para 597 et seq ante.

19 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 78(4)(c) (substituted by SI 2006/752; and applied and modified (see note 3 supra)).

(b) Receipt of Postal Ballot Papers at a Local Authority Referendum

643. Attendance at proceedings on receipt of postal ballot papers at local authority referendum. At a local authority referendum[1], no person may be present at the proceedings on the receipt of postal ballot papers[2] other than: (1) the counting officer[3] and his clerks[4]; and (2) persons who are entitled to attend[5] at the counting of the votes[6].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante.
4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(a) (reg 68 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. As to the appointment of counting officer's clerks for counting purposes see para 619 ante.
5 Ie in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5) in relation to England or the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5) in relation to Wales (see para 619 ante).
6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 68(b) (as applied and modified: see note 4 supra).

644. Notification of requirement of secrecy at proceedings relating to the receipt of postal ballot papers at local authority referendum. The counting officer[1] at a local authority referendum[2] must make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the receipt[3] of postal ballot papers[4] has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to those proceedings[5].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 As to proceedings on the receipt of postal ballot papers see paras 643 ante, 645 et seq post.
4 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 70 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. The text refers to the requirement of secrecy set out in the Representation of the People Act 1983 s 66(4), (6) (as amended, applied and modified) (see para 745 post).

645. Provision of postal ballot boxes and receptacles at local authority referendum. The counting officer[1] at a local authority referendum[2] must provide a separate ballot box for: (1) the reception of the covering envelopes[3] when returned by the postal voters[4] (the 'postal voters' ballot box')[5]; and (2) the reception of postal ballot papers[6] (the 'postal ballot box')[7]. Each such ballot box must be marked 'postal voters' ballot box' or 'postal ballot box', as the case may be, and with the name of the voting area[8] for which the referendum or referendums are held[9]. The postal ballot box must be shown to those present on the occasion of opening the first postal voters' ballot box as being empty[10] and must then be locked by the counting officer and sealed with his seal

and the seals of such of those present as desire to affix their seals in such manner as to prevent the box being opened without breaking the seal[11]. The counting officer must also provide: (a) the receptacle for rejected votes[12]; (b) the receptacle for declarations of identity[13]; (c) the receptacle for ballot paper envelopes[14]; and (d) the receptacle for rejected ballot paper envelopes[15].

The counting officer must take proper precautions for the safe custody of every such ballot box and receptacle[16].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 For the meaning of 'covering envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
4 For the meaning of 'postal voter' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, regs 64, 81(1)(a) (regs 64, 81 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.
6 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the issue of postal ballot papers see para 632 et seq ante.
7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(1)(b) (as applied and modified: see note 5 supra).
8 For the meaning of 'voting area' see para 582 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 81(2) (as applied and modified: see note 5 supra). There will be more than one referendum where the polls at more than one referendum in England have been taken together (as to which see para 20 ante).
10 Ibid reg 81(3) (as applied and modified: see note 5 supra).
11 Ibid reg 81(4) (as applied and modified: see note 5 supra).
12 Ibid regs 64, 81(5)(a) (as applied and modified: see note 5 supra).
13 Ibid regs 64, 81(5)(b) (as applied and modified: see note 5 supra).
14 Ibid regs 64, 81(5)(c) (as applied and modified: see note 5 supra).
15 Ibid regs 64, 81(5)(d) (as applied and modified: see note 5 supra).
16 Ibid reg 81(6) (as applied and modified: see note 5 supra).

646. Return of postal ballot papers, etc to counting officer at local authority referendum. At a local authority referendum[1], the manner in which any postal ballot paper[2] or declaration of identity may be returned to the counting officer[3] is by hand or by post and to a polling station it is by hand[4]. Where a covering envelope[5] (or an envelope which is stated to include a postal vote) is received by a counting officer (whether by hand or by post) before the close of the poll he must, immediately on receipt, place it unopened in a postal voters' ballot box[6]. Where an envelope, other than a covering envelope issued by the counting officer, has been opened and it contains a ballot paper envelope[7], declaration of identity or ballot paper, the first-mentioned envelope, together with its contents, must be placed in a postal voters' ballot box[8].

Where a postal ballot paper or declaration of identity has been returned to a polling station, the presiding officer[9] of that station must deliver, or cause to be delivered, any such paper or declaration to the counting officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets of ballot papers and other

documents which he is required to prepare on the close of poll at a polling station[10]. However, the counting officer may collect, or cause to be collected, any postal ballot paper or declaration of identity which the presiding officer of a polling station would otherwise be required in this way to deliver or cause to be delivered to him[11]; and where the counting officer collects, or causes to be collected, any postal ballot paper or declaration of identity in this way the presiding officer must first make it (or them) up into a packet (or packets) sealed with his own seal and the seals of such of those as are present and desire to affix their seals[12].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante. As to the issue of postal ballot papers see para 632 et seq ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante.
4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(1) (reg 79 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.
5 For the meaning of 'covering envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(1) (reg 82 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. As to the postal voters' ballot box see para 645 ante.
7 For the meaning of 'ballot paper envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(2) (as applied and modified: see note 6 supra).
9 As to the appointment of presiding officers and their clerks see para 618 ante.
10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (amended by SI 2006/752; and applied and modified (see note 4 supra)). As to the procedure on the close of poll at a polling station see para 631 ante.
11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(4) (added by SI 2006/752; and applied and modified (see note 4 supra)). As to the provisions that are so applied and modified see para 557 ante.
12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(5) (added by SI 2006/752; and applied and modified (see note 4 supra)).

647. Notice of opening of postal voters' ballot box and covering envelopes at local authority referendum. The counting officer[1] at a local authority referendum[2] must give to those persons who are entitled to attend[3] at the counting of the votes not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box[4] and the envelopes contained in it is to be opened[5]. Such a notice must specify the time and place at which such an opening is to take place[6].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 Ie in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5) in relation to England or the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5) in relation to Wales (see para 619 ante).
4 As to the postal voters' ballot box see para 645 ante.
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(1) (reg 80 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.

6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 80(2) (as applied and modified: see note 5 supra).

648. Opening of postal voters' ballot box at local authority referendum. At a local authority referendum[1], each postal voters' ballot box[2] must be opened by the counting officer[3] in the presence of the counting observers[4], if in attendance[5]. So long as the counting officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes[6] up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him[7]. The last postal voters' ballot box and the postal ballot box[8] must be opened at the counting of the votes[9].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to the postal voters' ballot box see para 645 ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante.
4 As to the appointment of counting observers see para 619 ante.
5 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(1) (reg 83 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.
6 for the meaning of 'covering envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(2) (as applied and modified: see note 5 supra).
8 As to the postal ballot box see para 645 ante.
9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 83(3) (as applied and modified: see note 5 supra). As to the counting of votes at a local authority referendum see para 652 et seq post.

649. Opening of covering envelopes at local authority referendum. At a local authority referendum[1], when a postal voters' ballot box[2] is opened, the counting officer[3] must count and record the number of covering envelopes[4] and then open separately each covering envelope (including any other envelope[5] which has been found to contain a ballot paper envelope[6], declaration of identity or ballot papers)[7].

Where the covering envelope does not contain the declaration of identity separately, the counting officer must open the ballot paper envelope to ascertain whether the declaration of identity is inside[8]. Where a covering envelope does not contain both a declaration of identity (whether separately or not) and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers), the counting officer must mark the covering envelope 'provisionally rejected', attach its contents (if any) and place it in the receptacle for rejected votes[9].

However, where a covering envelope (including any other envelope[10] which has been found to contain a ballot paper envelope, declaration of identity or ballot papers) contains both a declaration of identity and a ballot paper envelope (or, if there is no ballot paper envelope, a ballot paper or ballot papers)[11], the counting officer must satisfy himself that the declaration of identity is a valid declaration of identity (that is, that it has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address)[12]. Where the counting officer is not so satisfied, he must mark the declaration 'rejected', attach to it the ballot paper envelope (or, if there is no such envelope, the ballot paper or ballot papers) and show it to the counting observers[13] (and, if any of them objects to his decision, he must add the words 'rejection objected to') before placing the declaration in the receptacle for rejected votes[14]. The counting officer must then examine the number (or numbers) on the declaration of identity against the number (or numbers) on the ballot paper envelope and, where they are the same, he must place the declaration in the receptacle for

declarations of identity[15] and the ballot paper envelope in the receptacle for ballot paper envelopes[16]. Where the number (or numbers) on a valid declaration of identity is (or are) not the same as the number (or numbers) on the ballot paper envelope or where that envelope has no number on it (or only one number when the declaration of identity has more than one), the counting officer must open the envelope[17]. Where the ballot paper envelope has been opened in this way or where it has been opened[18] in order to ascertain whether the declaration of identity is inside[19], the counting officer must place: (1) in the postal ballot box[20], any ballot paper the number on which is the same as the number (or one of the numbers) on the valid declaration of identity[21]; (2) in the receptacle for rejected votes, any other ballot paper, with the valid declaration of identity attached and marked 'provisionally rejected'[22]; (3) in the receptacle for rejected votes, any valid declaration of identity marked 'provisionally rejected' where there is no ballot paper or, in the case of a declaration on which the number of more than one ballot paper appears, where there is not a sufficient number of ballot papers and, in such a case, he must mark the declaration to indicate which ballot paper is missing[23]; (4) in the receptacle for declarations of identity, any valid declaration not disposed of under head (2) or head (3) above[24]. Heads (1) to (4) above also apply where there is a valid declaration of identity but no ballot paper envelope[25].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to the postal voters' ballot box see para 645 ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante.
4 For the meaning of 'covering envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
5 Ie as described in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 82(2) (as applied and modified) (see para 646 ante).
6 For the meaning of 'ballot paper envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(1) (reg 84 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. There may be more than one ballot paper when the polls at more than one referendum or election have been taken together (as to which see para 20 ante).
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(3) (as applied and modified: see note 7 supra).
9 Ibid reg 84(4) (as applied and modified: see note 7 supra). As to the receptacle for rejected votes see para 645 ante.
10 See note 5 supra.
11 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(2) (as applied and modified: see note 7 supra).
12 Ibid regs 64, 85(1) (regs 64, 85 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.
13 As to the appointment of counting observers see para 619 ante.
14 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(2), (3) (as applied and modified: see note 12 supra).
15 As to the receptacle for declarations of identity see para 645 ante.
16 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(4) (as applied and modified: see note 12 supra). As to the receptacle for ballot paper envelopes see para 645 ante.
17 Ibid reg 85(5) (reg 85(5)–(7) substituted by SI 2002/1871; and applied and modified (see note 12 supra)). As to the provisions that are so applied and modified see para 557 ante.
18 Ie under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 84(3) (as applied and modified) (see the text and note 8 supra).
19 Ibid reg 85(6)(b) (as substituted, applied and modified: see notes 12, 17 supra).
20 As to the postal ballot box see para 645 ante.

21 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 85(7)(a) (as substituted, applied and modified: see notes 12, 17 supra).
22 Ibid reg 85(7)(b) (as substituted, applied and modified: see notes 12, 17 supra).
23 Ibid reg 85(7)(c) (as substituted, applied and modified: see notes 12, 17 supra).
24 Ibid reg 85(7)(d) (as substituted, applied and modified: see notes 12, 17 supra).
25 Ibid reg 85(6)(a) (as substituted, applied and modified: see notes 12, 17 supra).

650. Opening of ballot paper envelopes at local authority referendum. The counting officer[1] at a local authority referendum[2] must open separately each ballot paper envelope[3] placed in the receptacle for ballot paper envelopes[4]. He must place: (1) in the postal ballot box[5], any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope[6]; (2) in the receptacle for rejected votes[7], any other ballot paper which is marked 'provisionally rejected' with the ballot paper envelope attached[8]; and (3) in the receptacle for rejected ballot paper envelopes[9], any ballot paper envelope which is marked 'provisionally rejected' because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper)[10].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 For the meaning of 'ballot paper envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante.
4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(1) (reg 86 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. As to the receptacle for ballot paper envelopes see para 645 ante.
5 As to the postal ballot box see para 645 ante.
6 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(a) (as applied and modified: see note 4 supra). There may be more than one number on a ballot paper envelope when the polls at more than one referendum or election have been taken together (as to which see para 20 ante).
7 As to the receptacle for rejected votes see para 645 ante.
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(b) (as applied and modified: see note 4 supra).
9 As to the receptacle for rejected ballot paper envelopes see para 645 ante.
10 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 86(2)(c) (as applied and modified: see note 4 supra).

651. Conclusion of postal ballot procedure at local authority referendum. In respect of any local authority referendum[1], the counting officer[2] must keep two separate lists of rejected postal ballot papers[3]: (1) in the first list, he must record the ballot paper number of any postal ballot paper for which no valid declaration of identity was received with it[4]; (2) in the second list, he must record the ballot paper number of any postal ballot paper which is entered on a valid declaration of identity where that ballot paper is not received with the declaration of identity[5].

Where the counting officer receives a valid declaration of identity without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he may, at any time prior to the close of the poll, check the list kept under head (1) above to see whether the number (or numbers) of a postal ballot paper to which the declaration relates is entered in that list[6]. Where the counting officer receives a postal ballot paper without the declaration of identity to which it relates, he may, at any time prior to the close of the poll, check the list kept under head (2) above to see whether the number of that ballot paper is entered in that list[7]. The counting officer must conduct

either such check as soon as practicable after the receipt of packets from every polling station in the voting area[8] in question following the close of poll[9]. Where the ballot paper number in the list matches that number on a valid declaration of identity or, as the case may be, the postal ballot paper, the counting officer must retrieve that declaration or paper[10]. As soon as practicable after the completion of this procedure, the counting officer must make up into separate packets the contents of: (a) the receptacle of rejected votes[11]; (b) the receptacle of declarations of identity[12]; (c) the receptacle of rejected ballot paper envelopes[13]; and (d) the lists of spoilt and lost postal ballot papers[14], and he must seal up the packets[15]. Any document in those packets marked 'provisionally rejected' must be deemed to be marked 'rejected'[16].

The counting officer must then take the appropriate steps under the provisions governing the receipt of postal ballot papers[17] as though any document earlier marked 'provisionally rejected' had not been so marked, and he must amend the document accordingly[18].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 For the meaning of 'counting officer' see para 591 note 2 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(1) (reg 87 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). For the meaning of 'postal ballot paper' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4). As to the provisions that are so applied and modified see para 557 ante. As to the issue of postal ballot papers see para 632 et seq ante; and as to the rejection of postal ballot papers see para 649 et seq ante.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 87(2) (as applied and modified: see note 3 supra).

5 Ibid reg 87(3) (as applied and modified: see note 3 supra).

6 Ibid reg 88(1) (reg 88 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. There may be more than one postal ballot paper and number on a ballot paper envelope when the polls at more than one referendum or election have been taken together (as to which see para 20 ante).

7 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(2) (as applied and modified: see note 6 supra).

8 For the meaning of 'voting area' see para 582 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).

9 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(3) (as applied and modified: see note 6 supra). The text refers to the receipt of packets of ballot papers and other documents which the presiding officer is required to prepare on the close of poll at a polling station: see para 631 ante.

10 Ibid reg 88(4) (as applied and modified: see note 6 supra).

11 Ibid reg 89(1)(a) (reg 89 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. As to the receptacle for rejected votes see para 645 ante.

12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 89(1)(b) (as applied and modified: see note 11 supra). As to the receptacle of declarations of identity see para 645 ante.

13 Ibid reg 89(1)(c) (as applied and modified: see note 11 supra). As to the receptacle for rejected ballot paper envelopes see para 645 ante.

14 Ibid reg 89(1)(d) (as applied and modified: see note 11 supra).

15 Ibid reg 89(1) (as applied and modified: see note 11 supra).

16 Ibid reg 89(2) (as applied and modified: see note 11 supra).

17 As to the provisions governing the receipt of postal ballot papers at a local authority referendum see para 643 et seq ante.

18 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 88(5) (as applied and modified: see note 6 supra).

E. COUNTING OF THE VOTES AT REFERENDUM OR POLL

652. Attendance at counting of votes at a referendum or poll. As soon as practicable after the close of the poll, the counting officer[1] (in relation to a local authority referendum[2]) or to the returning officer[3] (in relation to a poll consequent on a parish or community meeting[4]) must make arrangements for counting the votes in the presence of the counting observers (if any)[5]; and he must give notice to them in writing of the time and place at which the count of the votes will begin[6].

In relation to a local authority referendum, no person may attend the counting of votes for any voting area[7] unless he is[8]: (1) the counting officer for that area[9]; (2) a person appointed by the counting officer[10]; (3) the elected mayor[11], if any, of the authority in respect of which the referendum is held[12]; (4) a petition organiser[13]; or (5) permitted by the counting officer for that area to attend the count[14]. In relation to a poll consequent on a parish or community meeting, no person other than the returning officer and his clerks[15] and the proposer of the resolution in respect of which the poll is taken[16] may be present at the counting of the votes, unless permitted by the returning officer to attend[17]. The counting officer or the returning officer (as the case may be) must make such arrangements as he thinks fit to ensure that every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the statutory provisions relating to the requirement of secrecy that apply to such attendance[18].

The counting officer or the returning officer (as the case may be) must give the counting observers all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them[19].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.
4 As to how polls consequent on a parish or community meeting come about see para 586 ante.
5 As to the appointment of counting observers at a referendum see para 619 ante.
6 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 26(1); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(4).
7 For the meaning of 'voting area' see para 582 note 2 ante.
8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5).
9 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(a).
10 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(b). The reference in the text is to a person appointed by the counting officer, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(1) or, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(1) (see para 619 ante).
11 For the meaning of 'elected mayor' see para 576 note 2 ante.
12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(c). As to the authority referred to in the text see para 576 note 3 ante.
13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(d); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(d). For the meaning of 'petition organiser' for these purposes see para 619 note 4 ante.
14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(5)(e); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(5)(e).
15 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(2)(a).
16 Ibid Schedule r 26(2)(c).

17 Ibid Schedule r 26(2). A person not entitled to attend at the counting of the votes may not be permitted to do so by the returning officer unless he is satisfied that the efficient counting of the votes will not be impeded: Schedule r 26(3).

18 See paras 611 ante, 742–746 post.

19 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(4); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 13(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 13(6). In particular, in relation to a poll consequent on a parish or community meeting, where the votes are counted by sorting the ballot papers according to votes for or against the question and then counting the number of ballot papers in each category, the proposer of the resolution is entitled to satisfy himself that the ballot papers are correctly sorted: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 26(5).

653. The count at a referendum or poll. The counting officer at a local authority referendum[1] and the returning officer at a poll consequent on a parish or community meeting[2] must, in the presence of the counting observers[3], open each ballot box and count and record the number of ballot papers in it[4] and verify each ballot paper account[5]. At a referendum, the counting officer must also count such of the postal ballot papers as have been duly returned and record the number counted[6]. The counting officer or the returning officer (as the case may be) must not count the votes given on any ballot papers until: (1) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box[7]; and (2) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box[8].

While counting and recording the number of ballot papers and counting the votes, the counting officer or the returning officer (as the case may be) must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers[9]; and he must not count any tendered ballot paper[10]. He must verify the ballot paper account by comparing each ballot paper account with the number of ballot papers recorded by him[11], and the unused and spoilt ballot papers[12] in his possession and the tendered votes list[13] (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list)[14]. He must draw up a statement as to the result of the verification, which any counting observer present at the verification may copy[15].

The counting officer or the returning officer (as the case may be) must, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, except that he may[16] exclude the hours between seven in the evening and nine on the following morning[17]. During the time so excluded, the counting officer or the returning officer (as the case may be) must take proper precautions for the security of the papers and documents[18].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante; and for the meaning of 'counting officer' see para 591 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see para 593 ante.

3 As to the appointment of counting observers at a referendum see para 619 ante.

4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 39(1)(a) (Sch 2 r 39 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 27(1)(a). In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39 (as applied and modified) is further modified: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the provisions that are so applied and modified see para 557 ante.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(1)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(1)(a).

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(1)(c) (as applied and modified: see note 4 supra). For these purposes, a postal ballot paper is not taken to be duly returned unless it is returned to the counting officer by hand or by post or to a polling station by hand (Sch 2 r 39(3A) (added by SI 2001/81; and as so applied and modified)) and unless it reaches the counting officer or a polling station in the voting area in question before the close of the poll and with the declaration of identity, duly signed and authenticated, also returned in like manner so that it reaches him or the polling station before that time (Sch 2 r 39(3) (substituted by SI 2001/81; and as so applied and modified)). For the meaning of 'voting area' see para 582 note 2 ante. As to the declaration of identity see para 632 ante. As to the means by which a postal voter may validly return a postal ballot paper or declaration of identity see further para 646 ante. There is no provision for absent voting at a poll consequent on a parish or community meeting and accordingly the provisions as to postal ballots do not apply in that case.

7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(2)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(1)(c). At a poll consequent on a parish or community meeting, where two such polls have been taken together, the returning officer must separate the ballot papers relating to each poll and count and record the number of ballot papers relating to each poll (Schedule r 27(1)(b)); and he must then mix together the whole of the ballot papers relating to the poll or each poll, as the case may be, which were contained in the ballot boxes (Schedule r 27(1)(c)). While separating the ballot papers, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers: Schedule r 27(3).

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(2)(a) (as applied and modified: see note 4 supra). There is no provision for absent voting at a poll consequent on a parish or community meeting (see note 6 supra) and accordingly the provision set out in head (2) in the text does not apply in that case.

9 Ibid Sch 2 r 39(5) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(3). As to the number which must be printed on the back of every ballot paper see para 612 ante.

10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(4) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(2). As to tendered ballot papers see para 629 ante.

11 As to the returning officer's duty to record the number of ballot papers counted and verify the account see the text and notes 1–5 supra.

12 As to spoilt ballot papers see para 630 ante.

13 As to the tendered votes list see para 629 ante.

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(6) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(4).

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(6) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(4).

16 Ie, at a poll consequent on a parish or community meeting, in so far as he thinks necessary: see ibid Schedule r 27(5).

17 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(7) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(5).

18 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 39(8) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 27(6)(b). At a poll consequent on a parish or community meeting, during the time excluded as mentioned in the text, it is provided that the returning officer must place the ballot papers and other documents relating to the poll under his own seal: Schedule r 27(6)(a). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.

654. Rejected ballot papers at a referendum or poll. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], any ballot paper: (1) which does not bear the official mark[3]; or (2) on which votes are given for more than one answer (at a referendum) or for and against the same question (at a poll)[4]; or (3) on which anything is written or marked by which the voter can be identified except the printed number on the back[5]; or (4) which is unmarked or void for uncertainty[6], is void and not counted[7]. However, a ballot paper on which a vote is marked elsewhere than in the proper place[8], or otherwise than by means of a cross[9], or by more than one mark[10], is not for such reason deemed to be void if an intention that

a vote is for one only of the answers (at a referendum) or for and against any question (at a poll) clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it[11].

The counting officer[12] at a local authority referendum or the returning officer at a poll consequent on a parish or community meeting[13] (as the case may be) must endorse the word 'rejected' on any ballot paper which is not to be counted and must add to the endorsement the words 'rejection objected to' if an objection is made by a counting observer[14] to his decision[15]. The counting officer or the returning officer (as the case may be) must draw up a statement showing the number of ballot papers rejected under the several heads of: (a) want of official mark[16]; (b) voting for more than one answer (at a referendum) or for and against the same question (at a poll)[17]; (c) writing or mark by which the voter could be identified[18]; (d) unmarked or void for uncertainty[19].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante.
3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 41(1)(a) (Sch 2 r 41 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 29(1)(a). As to the provisions that are so applied and modified see para 557 ante. As to the official mark used at a referendum or poll see para 612 ante.
4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(1)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(1)(b).
5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(1)(c) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(1)(c). As to the printing of ballot papers see para 612 ante.
6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(1)(d) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(1)(d).
7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(1) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(1). At a poll consequent on a parish or community meeting, it is provided that, where the voter is entitled to vote on more than one question, a ballot paper is not to be deemed to be void for uncertainty as respects any vote as to which no uncertainty arises and that vote is to be counted: Schedule r 29(2). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.
8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(3)(a) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3)(a).
9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(3)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3)(b).
10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(3)(c) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3)(c).
11 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(3) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(3).
12 For the meaning of 'counting officer' see para 591 note 2 ante.
13 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.
14 As to the appointment of counting observers at a referendum see para 619 ante.
15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(4) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(4)(a). At a poll consequent on a parish or community meeting, it is provided that, where a ballot paper is void in part but on which any vote is counted (see note 7 supra), the returning officer must endorse the words 'rejected in part' on the ballot paper and indicate which vote or votes have been counted: Schedule r 29(4)(b). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.
16 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(5)(a) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(a).
17 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(5)(b) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(b).
18 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(5)(c) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(c).

19 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 41(5)(d) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 29(5)(d). In relation to a poll consequent on a parish or community meeting, it is provided that the statement referred to in the text must include the number of ballot papers rejected in part and must record that number: Schedule r 29(5). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.

655. Conclusiveness of decision as to ballot papers of counting officer at referendum and returning officer at poll. The decision of the counting officer[1] at a local authority referendum[2] or the returning officer at a poll consequent on a parish or community meeting[3] on any question arising in respect of a ballot paper is final, but is subject to review on a petition[4].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.
4 Local Elections (Principal Areas) Rules 1986, r 5, SI 1986/2214, Sch 2 r 42 (applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 30. As to the provisions that are so applied and modified see para 557 ante. As to the application of provisions relating to the questioning of parliamentary and local elections to referendums and polls see para 761 et seq post.

656. Recount at a referendum or poll. A petition organiser[1] may, if present when the counting or any recount of the votes at a referendum or poll is completed[2], require the counting officer[3] at a local authority referendum or the returning officer at a poll consequent on a parish or community meeting[4] (as the case may be) to have the votes recounted or again recounted, but the counting officer or the returning officer (as the case may be) may refuse to do so if in his opinion the request is unreasonable[5]. No step may be taken on the completion of the counting or any recount of votes until such petition organisers[6] as are present at its completion have been given reasonable opportunity to exercise the right of demanding a recount[7].

1 Ie at a local authority referendum. By analogy, it is submitted that the provision set out in the text applies equally to the proposer of the resolution in respect of which a poll consequent on a parish or community meeting is taken. For the meaning of 'referendum' for these purposes see para 576 note 2 ante; and for the meaning of 'petition organiser' for these purposes see para 619 note 4 ante. As to how polls consequent on a parish or community meeting come about see para 586 ante.
2 As to the count see para 652 et seq ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante.
4 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.
5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 40(1) (Sch 2 r 40 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 28(1). As to the provisions that are so applied and modified see para 557 ante.
6 See note 1 supra.
7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 40(2) (as applied and modified: see note 5 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 28(2).

657. Equality of votes at a referendum or poll. Where, after the counting of the votes (including any recount) at a local authority referendum[1] is completed[2], an equality of 'yes' and 'no' votes is found, the counting officer[3] must forthwith decide the referendum by lot[4].

Where, after the counting of the votes (including any recount) at a poll consequent on a parish or community meeting[5] is completed[6], an equality of votes is found to exist for and against any question, and the addition of a vote would decide the question, the

returning officer[7] must forthwith decide that question by lot, and proceed as if the answer in favour of or against the question on which the lot falls had received an additional vote[8].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to the counting of the votes (including any recount) at a local authority referendum see para 652 et seq ante.
3 For the meaning of 'counting officer' see para 591 note 2 ante.
4 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 43 (Sch 2 r 43 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.
5 As to how polls consequent on a parish or community meeting come about see para 586 ante.
6 As to the counting of the votes (including any recount) at a poll consequent on a parish or community meeting see para 652 et seq ante.
7 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.
8 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 31.

F. FINAL PROCEEDINGS FOR THE REFERENDUM OR POLL

(A) Following a Local Authority Referendum

658. Declaration of result at local authority referendum. The counting officer[1] at a local authority referendum[2] must forthwith: (1) declare the result of the referendum[3]; (2) inform the proper officer[4] of the authority[5] by or in respect of which the referendum was held of the result of the referendum[6]; and (3) give public notice[7] of the result of the referendum[8], the number of ballot papers counted[9], the total number of votes cast for each answer[10] and the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[11].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 44(a) (Sch 2 r 44 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante. Subject to the provisions relating to referendum petitions (as to which see para 761 et seq post): (1) if the majority of the votes cast in a referendum other than a further referendum are 'yes' votes, the result of the referendum is, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 23 (as substituted) (action where referendum proposals approved: see para 659 post) and the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 23 (action where referendum proposals approved: see para 659 post) or, as the case may be, the comparable provisions of any other regulations or order made under any provision of the Local Government Act 2000 Pt II (ss 10–48) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 207 et seq), to approve the proposals that were the subject of the referendum (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14(1)); (2) if the majority of the votes cast in a referendum other than a further referendum are 'no' votes, the result of the referendum is, for the purposes of the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24 (action where referendum proposals rejected: see para 660 post) and the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24 (action where referendum proposals rejected: see para 660 post) or, as the case may be, the comparable provisions of any other regulations or order made under any provision of the Local Government Act 2000 Pt II (as amended), to reject the proposals that were the subject of the referendum (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(2)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14(2)); (3) if the majority of the votes cast in a further referendum are 'yes' votes, the result of the referendum is to approve the continuation of the local authority's existing executive arrangements (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14(3)); and (4) if the majority of the votes cast in a further referendum are 'no' votes, the result of the referendum is to reject the continuation of the local

authority's existing executive arrangements (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14(4)). In relation to England, it is further specified: (a) under head (1) supra, that, if the majority of the votes cast in a referendum other than a further referendum are 'yes' votes, the result of the referendum is, for the purposes of the Local Government Act 2000 s 27(7) (authority's actions following approval of proposals requiring referendum: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222), to approve the authority's proposals under s 25 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 220) (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(1)(a)); (b) under head (2) supra, that, if the majority of the votes cast in a referendum other than a further referendum are 'no' votes, the result of the referendum is, for the purposes of the Local Government Act 2000 s 27(8) (authority's actions following rejection of proposals requiring referendum: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222), to reject the authority's proposals under s 25 (Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(2)(a)); (c) under head (3) supra, that the result of the referendum is to approve the continuation of the authority's existing executive arrangements or, as the case may be, existing alternative arrangements (reg 18(3)); and (d) under head (4) supra, that the result of the referendum is to reject the continuation of the authority's existing executive arrangements or, as the case may be, existing alternative arrangements (reg 18(4)). In a case to which reg 18(4) applies (see heads (4) and (d) supra), the Local Government Act 2000 s 27(8)–(12) (drawing up of detailed fall-back proposals: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222) then applies as if the result of the further referendum were the rejection of the authority's proposals under s 25, but subject to modifications affecting references to the outline fall-back proposals: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18(5). For the meaning of 'further referendum' for these purposes see para 576 note 2 ante. For the meaning of 'existing executive arrangements' see para 563 note 10 ante. As to alternative arrangements see LOCAL GOVERNMENT vol 29(1) (Reissue) para 231.

4 For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)).

5 For the meaning of 'authority' see para 561 note 1 ante.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 44(b) (as applied and modified: see note 3 supra).

7 As to the giving of notice by the counting officer see para 591 note 2 ante.

8 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 44(c)(i) (as applied and modified: see note 3 supra).

9 Ibid Sch 2 r 44(c)(ii) (as applied and modified: see note 3 supra). As to the counting of the votes (including any recount) at a local authority referendum see para 652 et seq ante.

10 Ibid Sch 2 r 44(c)(iii) (as applied and modified: see note 3 supra).

11 Ibid Sch 2 r 44(c)(iv) (as applied and modified: see note 3 supra). As to the statement of rejected ballot papers see para 654 ante.

659. Action to be taken where proposals at local authority referendum are approved. If the result of a referendum held following a petition[1] or in pursuance of a direction[2] is to approve the proposals that were the subject of the referendum, the authority[3] must implement the proposals that were the subject of the referendum in accordance with the timetable included in the proposals[4].

Where the authority is then operating executive arrangements that take a form that differs from those that were the subject of the referendum, the authority is required to pass a resolution[5] for the purpose of enabling the authority to operate the executive arrangements that were the subject of the referendum[6].

1 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended) (see para 561 et seq ante).

2 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt III (regs 18–22) (as amended) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt III (regs 18–22) (as amended) (see para 572 et seq ante).

3 For the meaning of 'authority' see para 561 note 1 ante.

4 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 23(a) (reg 23 substituted by SI 2001/760); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 23(a). The text refers to the timetable included in the proposals that are drawn up, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3) (see para 570 ante) or, as the case may be, reg 19(1)(c) (see para 573 ante) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3) (see para 570 ante) or, as the case may be, reg 19(1)(c) (see para 573 ante).

5 Ie the Local Government Act 2000 s 29 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 218) applies as it applies for the purpose of enabling an authority to operate executive arrangements in other circumstances as if, for references to the arrangements, there were substituted references to the different executive arrangements that were the subject of the referendum: see, in relation to England, the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 23(b) (as substituted: see note 4 supra); and, in relation to Wales, the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 23(b).

6 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 23(b) (as substituted: see note 4 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 23(b).

660. Action where proposals at local authority referendum are rejected. If the result of a referendum held following a petition[1] or in pursuance of a direction[2] is to reject the proposals that were the subject of the referendum[3]: (1) the authority[4] may not implement those proposals[5]; and (2) if the authority is not then operating alternative arrangements or executive arrangements[6], it must draw up detailed fall-back proposals which are based on its outline fall-back proposals[7]. Detailed fall-back proposals must comprise the details (if any) specified in a direction[8] and such other details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may direct[9] as well as details of any transitional arrangements which are necessary for the implementation of the fall-back proposals[10]. In drawing up detailed fall-back proposals, the authority must comply with any directions given by the Secretary of State (in relation to England) or by the National Assembly for Wales (in relation to Wales)[11]; and, where those proposals involve executive arrangements, the authority must, unless a direction has been given in relation to that matter, decide the extent to which the specified functions[12] are to be the responsibility of the executive[13]. Except to the extent that detailed fall-back proposals involving executive arrangements or alternative arrangements are specified in a direction[14], the authority must: (a) before drawing up proposals in accordance with head (2) above, take reasonable steps to consult the local government electors[15] for, and other interested persons in, the authority's area[16]; and (b) in drawing up those proposals, consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness[17]. Where detailed fall-back proposals are drawn up in accordance with head (2) above, the authority must send a copy of them to the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales)[18].

If, when the referendum results in a rejection of the proposals that were the subject of the referendum, the authority is then operating executive arrangements, it must continue to operate those arrangements until it is authorised or required to operate different executive arrangements or authorised to operate alternative arrangements in place of its existing executive arrangements[19]; and, if the authority is then operating alternative arrangements, it must continue to operate those arrangements until it is authorised to operate different alternative arrangements or authorised or required to operate executive arrangements in place of its existing alternative arrangements[20].

The authority must implement detailed fall-back proposals in accordance with the timetable[21].

1 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt II (regs 3–17) (as amended) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt II (regs 3–17) (as amended) (see para 561 et seq ante).

2 Ie, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, Pt III (regs 18–22) (as amended) or under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, Pt III (regs 18–22) (as amended) (see para 572 et seq ante).

3 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1).

4 For the meaning of 'authority' see para 561 note 1 ante.

5 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1)(a).

6 As to the operation of executive arrangements see LOCAL GOVERNMENT vol 29(1) (Reissue) para 217 et seq; and as to the operation of alternative arrangements see LOCAL GOVERNMENT vol 29(1) (Reissue) para 231 et seq.

7 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1)(b). For the meaning of 'outline fall-back proposals' see para 570 note 9 ante.

8 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(2)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(2)(a). The text refers to the details (if any) specified in a direction, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1) (see para 572 ante) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1) (see para 572 ante).

9 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(2)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(2)(b).

10 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(2)(c); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(2)(c).

11 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(3)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(3)(a).

12 Ie the functions specified in regulations under the Local Government Act 2000 s 13(3)(b) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 308).

13 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(3)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(3)(b).

14 Ie specified in a direction, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 18(1) (see para 572 ante) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 18(1) (see para 572 ante).

15 As to entitlement to vote as a local government elector see para 112 et seq ante. For the meaning of 'local government election' see para 10 ante; and for the meaning of 'elector' see para 110 note 2 ante.

16 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(4)(a); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(4)(a).

17 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(4)(b); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(4)(b).

18 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(5); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(5).

19 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1)(c) (reg 24(1)(c), (d) substituted by SI 2001/760); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1)(c).

20 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(1)(d) (as substituted: see note 19 supra); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(1)(d).

21 Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 24(6); Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 24(6). The text refers to the timetable included in the proposals, in relation to England, pursuant to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(ii) (see para 570 ante) or, as the case may be, reg 20(3)(a)(iii) (see para 573 ante) and, in relation to Wales, pursuant to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(ii) (see para 570 ante) or, as the case may be, reg 20(3)(a)(iii) (see para 573 ante). Where detailed fall-back proposals are based on proposals approved under the Local Government Act 2000 s 28(1) (approval of outline fall-back proposals: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 308), the timetable referred to in the text must be extended to the extent that there is any delay in making the necessary regulations under s 11(5) (forms of local authority executive: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212) or, as the case may be, under s 32 (alternative arrangements: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 231).

(B) Following a Poll consequent on a Parish or Community Meeting

661. Declaration of result of poll consequent on a parish or community meeting. At a poll consequent on a parish or community meeting on any question other than a question of appointment to any office[1], when the result of the poll has been ascertained[2], the returning officer[3] must forthwith: (1) declare the number of votes given for and against the question and whether the proposal to which the question relates has been carried or not[5]; (2) give notice[5] of the result of the poll to the chairman of the meeting at which the poll was demanded[6]; and (3) give notice of the declaration as to the number of votes under head (1) above, together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers[7].

1 As to how polls consequent on a parish or community meeting come about see para 586 ante.

2 As to the counting of the votes (including any recount) at a poll consequent on a parish or community meeting see para 652 et seq ante.

3 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.

4 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 32(b)(i).

5 As to the giving of notice by the returning officer at a poll consequent on a parish or community meeting see para 593 ante.

6 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 32(b)(ii). As to the constitution of, and procedure at, parish and community meetings see LOCAL GOVERNMENT vol 29(1) (Reissue) para 255 et seq.

7 Ibid Schedule r 32(b)(iii). As to the statement of rejected ballot papers see para 654 ante.

G. DISPOSAL OF DOCUMENTS FOLLOWING REFERENDUM OR POLL

662. Sealing up of ballot papers at a referendum or poll. At a local authority referendum[1] or at a poll consequent on a parish or community meeting[2], on the completion of the counting[3], the counting officer[4] (at a referendum) and the returning officer (at a poll)[5] must seal up in separate packets the counted and rejected ballot papers[6]. The sealed packets of tendered ballot papers[7] or of counterfoils[8] or of marked copies of the register of electors[9] must not be opened by the returning officer or the counting officer (as the case may be)[10].

Special provision is made for the sealing of the contents of receptacles used for the purposes of postal voting at a local authority referendum[11].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 As to how polls consequent on a parish or community meeting come about see para 586 ante.

3 As to the counting of the votes (including any recount) at a local authority referendum or poll consequent on a parish or community meeting see para 652 et seq ante.

4 For the meaning of 'counting officer' see para 591 note 2 ante.
5 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.
6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 45(1) (Sch 2 r 45 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 33(1). As to the provisions that are so applied and modified see para 557 ante. As to rejected ballot papers see para 654 ante. In the case of a poll consequent on a parish or community meeting, the packet of rejected ballot papers must include those rejected in part also: Schedule r 33(1). However, this provision does not apply in the case of a referendum: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 3 Table 3; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 3 Table 3.
7 As to tendered ballot papers see para 629 ante.
8 And, in the case of a local authority referendum, certificates of employment on duty on the day of the poll (as to which see para 623 ante): Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 45(2) (as applied and modified: see note 6 supra). There is no provision for certificates as to employment on duty at a poll consequent on a parish or community meeting and accordingly the reference to such certificates does not apply in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2).
9 And, in the case of a local authority referendum, lists of proxies: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 45(2) (as applied and modified: see note 6 supra). As to the list of proxies see para 601 ante; and as to the procedure for marking copies of voter records see para 625 ante. There is no provision for voting by proxy at a poll consequent on a parish or community meeting and accordingly the reference to the list of proxies is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2).
10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 45(2) (as applied and modified: see note 6 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 33(2).
11 See para 651 ante.

663. Delivery of documents relating to a referendum or poll. The counting officer at a local authority referendum[1] and the returning officer at a poll consequent on a parish or community meeting[2], must, after sealing up the ballot papers[3], forward to the proper officer of the council[4] for which the referendum or poll (as the case may be) is held[5]: (1) the packets of ballot papers in his possession[6]; (2) the ballot paper accounts[7], and the statements of rejected ballot papers[8] and of the result of the verification of the ballot paper accounts[9]; (3) the tendered votes lists[10], the lists of voters with disabilities assisted by companions[11], the lists of votes marked by the presiding officers and the statements relating to them[12], and the declarations made by the companions of voters with disabilities[13]; (4) the packets of counterfoils[14]; and (5) the packets containing marked copies of the registers of electors[15], endorsing on each packet a description of its contents, and the name of the voting area[16] (in the case of a referendum) or the name of the parish or community for which the poll was held and the date of the poll to which the documents relate (in the case of a poll)[17].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante; and for the meaning of 'counting officer' see para 591 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante; and as to returning officers appointed at polls consequent on a parish or community meeting see para 593 ante.
3 As to the sealing up of ballot papers at a referendum or poll see para 662 ante.
4 Ie, in the case of a local authority referendum, the proper officer of the county, district or London borough council in England or county or county borough council in Wales for which the referendum is held (Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1) (Sch 2 r 46 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870)) and, in relation to a poll consequent on a parish or community meeting, the proper officer of the council of the district in England in which the parish is situate or, by virtue of the Local Government (Wales) Act 1994 s 17, the county or county borough in Wales in which the community is situate (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 34). As to the provisions that are so applied and modified see para 557 ante. For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)). For the purposes of a poll

consequent on a parish meeting, any reference to a proper officer of a council means any officer appointed for the purpose by that council: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 38(3). For the meanings of 'England' and 'Wales' see para 13 note 1 ante. As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq. As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq; and as to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.

5 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1) (amended by SI 1990/158; SI 2001/81; and applied and modified (see note 4 supra)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46 (as amended, applied and modified) is further modified: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

6 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(a) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(a).

7 As to the ballot paper accounts see para 653 et seq ante.

8 As to the statement of rejected ballot papers see para 654 ante.

9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(b) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(b).

10 As to the tendered votes list see para 629 ante.

11 As to the list of voters with disabilities assisted by companions see para 628 ante.

12 As to the list of votes marked by the presiding officer see para 627 ante.

13 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(c) (amended by SI 2001/80; and applied and modified (see note 4 supra)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(c). As to declarations made by the companions of voters with disabilities see para 628 ante. In relation to a poll consequent on a parish meeting on a question involving appointment to office, the provision set out in the text applies only to voters with blindness and all references to other disabilities must be ignored in that case: see Schedule r 34(c).

14 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(d) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(d). In the case of a local authority referendum, the certificates as to employment on duty on the day of the poll (as to which see para 623 ante) must also be forwarded with the packets of counterfoils: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(d) (as so applied and modified). There is no provision for certificates as to employment on duty at a poll consequent on a parish meeting on a question involving appointment to office and accordingly the reference to such certificates is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(d).

15 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(e) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(e). In the case of a local authority referendum, the marked lists of proxies must also be forwarded with the marked copies of the registers of electors: Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1)(e) (as so applied and modified). As to the list of proxies see para 601 ante; and as to the procedure for marking copies of voter records see para 625 ante. There is no provision for voting by proxy at a poll consequent on a parish or community meeting and accordingly the reference to the list of proxies is omitted in that case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34(e).

16 For the meaning of 'voting area' see para 582 note 2 ante.

17 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 46(1) (as applied and modified: see note 4 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 34.

664. Forwarding of documents after postal voting at a local authority referendum. The counting officer[1] at a local authority referendum[2] must, after sealing up the postal ballot papers[3], forward to the proper officer of the local authority for which the referendum was held[4] certain packets[5] containing documents relating to postal voting[6]. He must endorse on each packet a description of its contents, the date of the referendum to which it relates, and the name of the voting area[7] for which the referendum was held[8].

Where any covering envelopes[9] are received by the counting officer after the close of the poll[10] or where any envelopes addressed to postal voters[11] are returned as undelivered

too late to be re-addressed, or where any spoilt postal ballot papers[12] are returned too late to enable other postal ballot papers to be issued, the counting officer must put them unopened into a separate packet, seal up the packet and endorse and forward it at a subsequent date in the same manner as the postal voting packets previously forwarded[13].

Any packet so forwarded is deemed to have been forwarded in pursuance of the referendum rules[14] and is subject to the usual provisions which govern orders for the production of referendum documents and the retention and public inspection of referendum documents[15].

1 For the meaning of 'counting officer' see para 591 note 2 ante.
2 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 As to the sealing up of postal ballot papers at a referendum see para 651 ante.
4 For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)).
5 Ie the packets referred to in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 75 (as amended, applied and modified) (counterfoils and special lists: see para 639 ante), reg 77(6) (as applied and modified) (spoilt postal ballot papers: see para 641 ante), reg 78(2C) (as added, applied and modified) (cancelled postal ballot papers: see para 642 ante) and reg 89 (as applied and modified) (contents of receptacles: see para 651 ante). As to the provisions that are so applied and modified see para 557 ante.
6 Ibid reg 91(1)(a), (2) (reg 91(1)(a) amended by SI 2006/752; and the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870). As to the provisions that are so applied and modified see para 557 ante.
7 For the meaning of 'voting area' see para 582 note 2 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
8 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(1)(a) (as amended, applied and modified: see note 6 supra).
9 For the meaning of covering envelope' see para 416 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
10 Ie apart from those delivered by the presiding officer in accordance with the provisions of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 79(3) (as amended, applied and modified) (see para 646 ante).
11 For the meaning of 'postal voter' see para 412 note 3 ante (definition applied, in relation to England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4; and, in relation to Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4).
12 As to spoilt postal ballot papers see para 641 ante.
13 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(3) (as applied and modified: see note 6 supra).
14 Ie, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(k), in relation to England, and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(k), in relation to Wales, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214 (as amended, applied and modified).
15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91(4) (as applied and modified: see note 6 supra). The text refers to the provisions set out in the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 47 (as applied and modified) (see para 849 post) and in Sch 2 r 48 (as applied and modified) (see para 665 post).

665. Retention and public inspection of documents relating to a referendum or poll. Following a local authority referendum[1] or a poll consequent on a parish or community meeting[2], the proper officer of the council[3] must retain for six months among the records of the council all documents relating to a referendum or poll (as the case may be) which are forwarded to him by a counting officer[4] (at a referendum)

or the returning officer (at a poll)[5], and then, unless otherwise directed by an order of the county court or election court[6], must cause them to be destroyed[7]. The documents forwarded to the proper officer (except ballot papers and counterfoils[8]) must be open to public inspection at such time and in such manner as may be determined by the council of which he is an officer[9]. On request, the proper officer must supply copies of or extracts from the documents open to public inspection on payment of such fees, and subject to such conditions, as may be determined by the council of which he is an officer[10].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 As to how polls consequent on a parish or community meeting come about see para 586 ante.
3 Ie, in the case of a local authority referendum, the proper officer of the county, district or London borough council in England or county or county borough council in Wales for which the referendum is held (Local Elections (Principal Areas) Rules 1986, SI 1986/2214, r 5, Sch 2 r 48(1) (Sch 2 r 48 applied and modified in relation to England by SI 2001/1298; and in relation to Wales by SI 2004/870)) and, in relation to a poll consequent on a parish or community meeting, the proper officer of the council of the district in which the parish is situate or, by virtue of the Local Government (Wales) Act 1994 s 17, the county or county borough in Wales in which the community is situate (Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 36(1)). As to the provisions that are so applied and modified see para 557 ante. For the meaning of 'proper officer' see para 155 note 2 ante (definition applied, in relation to a local authority referendum held in England, by virtue of the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 2(1); and, in relation to a local authority referendum held in Wales, by virtue of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 2(1)). For the purposes of a poll consequent on a parish meeting, any reference to a proper officer of a council means any officer appointed for the purpose by that council: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 38(3). For the meanings of 'England' and 'Wales' see para 13 note 1 ante. As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; and as to parishes generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 30 et seq. As to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq; and as to communities generally see LOCAL GOVERNMENT vol 29(1) (Reissue) para 46 et seq.
4 For the meaning of 'counting officer' see para 591 note 2 ante.
5 As to returning officers at polls consequent on a parish or community meeting see para 593 ante.
6 As to the production and inspection of documents by order of the court see para 849 post.
7 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48(1) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(1). As to offences which relate to persons who interfere with access to or the control of referendum documents see para 748 post. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48 (as applied and modified) is further modified: see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.
8 And, in relation to a local authority referendum, certificates as to employment on duty on the day of the poll (as to which see para 623 ante): Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48(2) (as applied and modified: see note 3 supra). There is no provision for certificates as to employment on duty on the day of the poll at a poll consequent on a parish or community meeting and accordingly this provision does not apply in such a case: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(2).
9 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48(2) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(2).
10 Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 48(3) (as applied and modified: see note 3 supra); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 36(3).

H. PILOT SCHEMES REGARDING VOTING AND CAMPAIGNING AT LOCAL AUTHORITY REFERENDUMS

666. Pilot schemes submitted by principal councils regarding the conduct of a local authority referendum. Where a relevant local authority[1] submits to the Secretary of State[2] proposals for a pilot scheme to apply to particular local authority referendums[3] held in the authority's area[4] and those proposals are approved by the

Secretary of State, either without modification or with such modifications as, after consulting the authority, he considers appropriate[5], the Secretary of State must by order[6] make such provision for and in connection with the implementation of the scheme in relation to those referendums as he considers appropriate (which may include provision modifying or disapplying any enactment)[7]. Such a scheme may make, in relation to local authority referendums in the area of a relevant local authority, provision differing in any respect from that made under or by virtue of the Local Government Act 2000[8] as regards one or more of the following, namely: (1) when, where and how voting at the referendums is to take place[9]; (2) how the votes cast at the referendums are to be counted[10]; (3) the sending by any campaign organiser[11] of referendum communications free of charge for postage[12]. Without prejudice to the generality of these provisions, such a scheme may make provision: (a) for voting to take place on more than one day (whether each of those days is designated as a day of the poll or otherwise) and at places other than polling stations[13]; or (b) for postal charges incurred in respect of the sending of campaign organisers' referendum communications as mentioned in head (3) above to be paid by the authority concerned[14].

1 For these purposes, 'relevant local authority' means, as respects England, a county council, a district council or a London borough council and, as respects Wales, a county council or a county borough council: Representation of the People Act 2000 s 10(11) (s 10 applied and modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1). As to counties and districts in England, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 25 et seq; as to counties and county boroughs in Wales, and their councils, see LOCAL GOVERNMENT vol 29(1) (Reissue) para 41 et seq; as to London boroughs, and their councils, see LONDON GOVERNMENT vol 29(2) (Reissue) paras 30, 35–39, 59 et seq; and as to the Greater London Authority see LONDON GOVERNMENT vol 29(2) (Reissue) para 79 et seq. A county council, a district council or a London borough council in England and a county council or a county borough council in Wales is referred to as a 'principal council': see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24.

2 As to the Secretary of State see para 2 ante.

3 Ie including any such proposals which are submitted by a relevant local authority jointly with the Electoral Commission, in which case references to the authority must be read as references to the authority and the Commission: Representation of the People Act 2000 s 10(1A) (added by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 16(1), (2); and applied and modified (see note 1 supra)). As to the Electoral Commission see para 31 et seq ante. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

4 Representation of the People Act 2000 s 10(1)(a) (as applied and modified: see note 1 supra).

5 Ibid s 10(1)(b) (as applied and modified: see note 1 supra).

6 Where the Secretary of State makes any such order he must send a copy of the order to the authority concerned and to the Electoral Commission, and that authority must publish the order in its area in such manner as it thinks fit: ibid s 10(5) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (3); and applied and modified (see note 1 supra)). In a case where any proposals are not jointly submitted under the Representation of the People Act 2000 s 10(1A) (as added, applied and modified) (see note 3 supra), the Secretary of State must consult the Electoral Commission before making any such order: s 10(1A) (as added, applied and modified: see notes 1, 3 supra).

7 Ibid s 10(1) (as applied and modified: see note 1 supra).

8 As to schemes for the conduct of referendums under or by virtue of the Local Government Act 2000 see para 557 et seq ante.

9 Representation of the People Act 2000 s 10(2)(a) (as applied and modified: see note 1 supra).

10 Ibid s 10(2)(b) (as applied and modified: see note 1 supra).

11 Ie within the meaning of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 6–7 (see para 579 note 13 ante) or, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 6–7 (see para 579 note 13 ante).

12 Representation of the People Act 2000 s 10(2)(c) (as applied and modified: see note 1 supra).

13 Ibid s 10(3)(a) (as applied and modified: see note 1 supra).

14 Ibid s 10(3)(b) (as applied and modified: see note 1 supra). Where a scheme makes provision for postal charges incurred in respect of the sending of campaign organisers' referendum communications to be

paid as is mentioned in head (b) in the text, the Secretary of State's order under s 10(1) (as applied and modified) (see the text and notes 1–7 supra) may make provision for disapplying, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 6–7 (general restriction on referendum expenses and notional referendum expenses: see paras 579–580 ante) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 6–7 (general restriction on referendum expenses and notional referendum expenses: see paras 579–580 ante) in relation to the payment of such charges by the authority: Representation of the People Act 2000 s 10(3) (as so applied and modified).

667. Evaluation by the Electoral Commission of pilot schemes relating to voting and campaigning at local authority referendums. Once any local authority referendums[1] have taken place in relation to which a pilot scheme order applied[2], the Electoral Commission[3] must prepare a report on the scheme[4]. Such a report must be prepared in consultation with the local authority concerned[5]; and that authority must provide the Commission with such assistance as it may reasonably require in connection with the preparation of the report (and such assistance may, in particular, include the making by the authority of arrangements for ascertaining the views of voters about the operation of the scheme)[6]. The report must, in particular, contain[7]: (1) a description of the scheme and of the respects in which the provision made by it differed from that made by or under the Local Government Act 2000[8]; (2) a copy of the order of the Secretary of State[9]; and (3) an assessment of the scheme's success or otherwise in facilitating voting at the referendums in question[10] and, if it made provision as respects the counting of votes cast at those referendums, the counting of votes, or in encouraging voting at the referendums in question or enabling voters to make informed decisions at those referendums[11]. If the Secretary of State so requests in writing, the report must also contain an assessment of such other matters relating to the scheme as are specified in his request[12]. Once the Commission has prepared the report, it must send a copy of it to the Secretary of State and to the authority concerned, and that authority must publish the report in its area, in such manner as it thinks fit, by the end of the period of three months beginning with the date of the declaration of the result of the referendums in question[13].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
2 Ie in relation to which a scheme under the Representation of the People Act 2000 s 10(1) (as applied and modified) applied (see para 666 ante).
3 As to the Electoral Commission see para 31 et seq ante.
4 Representation of the People Act 2000 s 10(6) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (4); and the Representation of the People Act 2000 s 10 applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1).
5 As to the local authorities which may propose such a scheme see para 666 note 1 ante.
6 Representation of the People Act 2000 s 10(6A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (5); and applied and modified (see note 4 supra)).
7 Representation of the People Act 2000 s 10(7) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (6); and applied and modified (see note 4 supra)).
8 Representation of the People Act 2000 s 10(7)(a) (as applied and modified: see note 4 supra). As to schemes for the conduct of referendums under or by virtue of the Local Government Act 2000 see para 557 et seq ante.
9 Representation of the People Act 2000 s 10(7)(b) (as applied and modified: see note 4 supra). The text refers to the pilot scheme order made under s 10(1) (as applied and modified) (see para 666 ante). As to the Secretary of State see para 2 ante.
10 An assessment of the scheme's success or otherwise in facilitating voting at the referendums in question must include a statement by the authority concerned as to whether, in its opinion: (1) the turnout of voters was higher than it would have been if the scheme had not applied (ibid s 10(8)(a) (as applied and modified: see note 4 supra)); (2) voters found the procedures provided for their assistance by the scheme easy to use (s 10(8)(b) (as so applied and modified)); (3) the procedures provided for by the scheme led to any increase in personation or other electoral offences or in any other malpractice in connection with

referendums (s 10(8)(c) (as so applied and modified)); (4) those procedures led to any increase in expenditure, or to any savings, by the authority (s 10(8)(d) (as so applied and modified)).

11 Ibid s 10(7)(c) (as applied and modified: see note 4 supra).

12 Ibid s 10(9) (as applied and modified: see note 4 supra).

13 Ibid s 10(10) (substituted by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 16(1), (7); and applied and modified (see note 4 supra)). As to the declaration of results at a local authority referendum see para 658 ante.

7. IRREGULARITIES, OFFENCES AND LEGAL PROCEEDINGS

(1) INJUNCTIONS AND ORDERS

668. Jurisdiction of court to grant injunction or order. The High Court has a general jurisdiction to grant an injunction in all cases in which it appears to the court to be just and convenient to do so; and any such order may be made unconditionally or upon such terms and conditions as the court thinks just[1]. However, this general power has been exercised rarely when called upon in cases relating to elections. For instance, the court has refused to grant injunctive relief where the administrative authority of a political party has intervened by the deselection of candidates and the imposition of new candidates at an election[2]; and the court declined to grant an injunction where a candidate broke his agreement with the other candidate not to use polling agents at the election[3].

Although jurisdiction is conferred on the High Court to make orders before an election in restraint of false statements made in relation to a candidate[4], the guiding principle otherwise is that the court should be extremely slow to intervene in the machinery of an election before it has taken place, and should do so only in exceptional circumstances[5]. Nevertheless, where a candidate was alleged to be telling untruths about himself in nomination papers so that he was in breach of the Representation of the People Act 1983[6], it was held that the court had jurisdiction to entertain proceedings for an injunction to restrain the breach[7].

1 See the Supreme Court Act 1981 s 37(1), (2); and INJUNCTIONS vol 24 (Reissue) para 318.

2 *Choudhry v Triesman* [2003] EWHC 1203 (Ch), [2003] 22 LS Gaz R 29, (2003) Times, 2 May (candidates replaced after internal investigation by the Labour Party concluded that the selection procedures in the claimants' wards were 'unsound'; on the facts, the candidates failed to obtain injunctive relief in the form of a mandatory injunction and declaratory relief to the effect that their selections be allowed to stand and to ensure that their names were presented to the returning officer). It is possible that an injunction may be granted restraining a candidate who has not been regularly adopted by a local political association as its official candidate from acting as though he had been officially adopted and campaigning on that basis as the official candidate: see *Noonan v De Pinna* (1953) Times, 18 November, where the judge, after deciding that the meeting at which the candidate had been adopted had been irregularly convened, said that the question whether an injunction should be granted was one of convenience and decided not to grant an injunction.

3 See *Ainsworth v Lord Muncaster* (1885) 2 TLR 108, in which Cave J stated that an injunction ought to be refused if only because the public had an interest in the proper conduct of elections. As to how far the public interest in the conduct of elections allows the court to intervene by way of injunction or order under general powers where allegedly-fraudulent devices are used see the text and notes 6–7 infra; and para 726 post.

4 See para 669 post.

5 *R (on the application of Begum) v Tower Hamlets London Borough Council* [2006] EWCA Civ 733, [2006] LGR 674; revsg [2006] EWHC 1074 (Admin), [2006] All ER (D) 243 (Apr), [2006] 19 LS Gaz R 26. The principle set out in the text has been stated in the context of the court refusing applications for judicial review of a returning officer's decision to reject nomination papers: *R (on the application of Begum) v Tower Hamlets London Borough Council* supra at [20]–[22]; *R (on the application of De Beer) v Balabanoff* [2002] EWHC 670 (Admin) at [37]–[38], (2002) Times, 25 April at [37]–[38] (per curiam) (although judicial review does lie against a returning officer's decision regarding nomination papers, it is an area in which the courts should be extremely slow to interfere and the returning officer ordinarily should be left to conduct the election process as provided by Parliament).

6 Ie the Representation of the People Act 1983 s 115(2)(b) (as amended) (use of fraudulent devices: see para 726 post).

7 *Spencer v Huggett* [1997] 30 LS Gaz R 30 (it was held that the court had jurisdiction to entertain proceedings for an injunction to restrain the breach, despite the fact that it constituted a crime, on the basis that the public wrong being alleged interfered with the plaintiff candidate's private right to stand at an election untainted by corruption or, alternatively, that the plaintiff would suffer special damage from

such interference with that public right; application refused in this case). As to the general rule of procedural exclusivity and the distinction drawn between public law rights and private law rights see *Gouriet v Union of Post Office Workers* [1978] AC 435, [1977] 3 All ER 70, HL; and ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) para 71.

669. Interim or perpetual injunctions restraining false statements about candidates before or during election. A person making or publishing any false statement of fact before or during an election[1] in relation to a candidate's personal character or conduct at an election[2] may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate[3]. The false statement of fact may or may not be such as would sustain an action for defamation[4]. For the purpose of granting an interim injunction, prima facie proof of the falsity of the statement is sufficient[5]; but an interim injunction ought not to be granted where justification is pleaded in answer to an action for libel unless the court is satisfied that the defendants have no reasonable prospect of success at the trial[6].

The public interest which limits the right of organs of central or local government to sue for libel[7] is sufficiently strong to justify extending the limitation to cover a political party and those putting themselves forward for office or to govern[8].

1 Ie before or during a parliamentary, local government, Welsh Assembly or European election. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante. As to European parliamentary elections see para 224 et seq ante.

2 The making or publishing of such a statement is an illegal practice: see para 683 post.

3 Representation of the People Act 1983 s 106(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 71(2). The text refers to 'any false statement of fact as mentioned above' but it is not clear whether the phrase 'as mentioned above' attaches to those words which limit the false statement to having been made or published before or during an election for the purpose of affecting the return of any candidate at the election and/or the words which refer simply to false statements relating to personal character or conduct (illegal practice of making false statements: see para 683 post). In *Ellis v National Union of Conservative and Constitutional Associations, Middleton and Southall* (1900) 109 LT Jo 493, it was said that for an injunction to be granted the statement must be made before or during an election and for the purpose of affecting a candidate's return. In *Mills v Drummond* (1934) 78 Sol Jo 192, an injunction was granted restraining the defendants from issuing statements to the effect that the plaintiff was the sort of person to use or had used his position as chairman of a local authority's entertainments committee to further the showing or exploitation of wild animals at circuses of which the defendant strongly disapproved, whether or not the furtherance was for his own personal gain. In *Fairbairn v Scottish National Party* 1979 SC 393, an injunction was granted because the statement complained of was reasonably capable of bearing the innuendo that the candidate, who prior to the election was a member of Parliament, had failed to deal with correspondence and had thereby failed to perform his duties as such.

The Representation of the People Act 1983 s 106(3) is notable for conferring an explicit power to take out an injunction while an election campaign is in progress; in practice, the court's general jurisdiction to grant an injunction has been exercised sparingly whilst an election campaign has been ongoing (see para 668 ante).

4 *Louth Northern Division Case* (1911) 6 O'M & H 103 at 165. A statement, though false or unjustifiable or derogatory, is not prohibited by the Representation of the People Act 1983 s 106(1) (false statements as to candidates as an illegal practice: see para 683 post) if it simply deals with the political position or reputation of a candidate, and does not relate to his personal character or conduct; accordingly, a statement that a candidate is a communist was held not to be within the corresponding provision relating to municipal elections (*Burns v Associated Newspapers Ltd* (1925) 89 JP 205).

5 Representation of the People Act 1983 s 106(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 71(2). See eg *Bayley v Edmunds, Byron and Marshall* (1895) 11 TLR 537, CA.

6 *Burns v Associated Newspapers Ltd* (1925) 89 JP 205. As to whether statute bars a plea of qualified privilege as respects defamatory statements by or on behalf of a candidate at an election see the Defamation Act 1952 s 10 (prospectively amended); and para 335 ante.

7 See *Derbyshire County Council v Times Newspapers Ltd* [1993] AC 534, [1993] 1 All ER 1011, HL (it would place an undesirable fetter on freedom of speech and be contrary to the public interest if organs of central or local government were favoured with the right to sue for libel).

8 *Goldsmith v Bhoyrul* [1998] QB 459, [1997] 4 All ER 268 (a political party, even when set up as a corporation, has no right at common law to maintain an action for defamation).

(2) IRREGULARITIES AND OFFENCES

(i) Validity of and Irregularities at Elections

670. Effect of breaches of election rules by returning officer. No election[1] is to be declared invalid by reason of any act or omission by the returning officer[2] or any other person in breach of his official duty in connection with the election or otherwise of the appropriate elections rules[3] if it appears to the tribunal having cognisance of the question that the election was so conducted as to be substantially in accordance with the law as to elections, and that the act or omission did not affect its result[4]. The function of the court in exercising this jurisdiction is not assisted by consideration of a standard of proof but, having regard to the consequences of declaring an election void, there must be a preponderance of evidence supporting any conclusion that the result was affected[5]. Where breaches of the elections rules, although trivial, have affected the result, that by itself is enough to compel the court to declare the election void even though it has been conducted substantially in accordance with the law as to elections[6]. Conversely, if the election was conducted so badly that it was not substantially in accordance with the law as to elections, the election is vitiated, irrespective of whether the result was affected or not[7].

If, owing to a mistake in the notice of election, some candidates are misled into delivering their nomination papers too late and they are rejected by the returning officer for being late, the election will be avoided[8]. On the other hand, failure to comply with the timetable as respects the publication of the notice of the election[9] does not render the election void if the result of the election has not been affected by it[10]. The wrongful rejection of the nomination of a candidate will avoid an election[11]. The inclusion on a ballot paper of the name of a candidate who has withdrawn will avoid an election if the number of votes given to that candidate might affect the result[11]. The marking of the faces of a number of ballot papers with the electors' numbers in the register before delivering them to the voters will not, if the result is unaffected, avoid the election[13]; but the marking in this way of all the ballot papers would avoid the election[14]. Failure to open or close the poll at a polling station at the correct time[15] will not avoid an election provided that it can be shown that the result was not affected[16]. Failure to count or record the number of ballot papers in each box or mix the whole of the ballot papers before counting[17], or failure to comply strictly with the provisions as to forwarding documents after the close of the poll[18], is not sufficient to avoid the election. The exposure of a few ballot papers by the voters themselves would not invalidate an election in the absence of a conspiracy to nullify the law relating to elections[19].

1 Ie a parliamentary, local government, Welsh Assembly or European election or other election under the Local Government Act 1972. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'local government election' see para 10 ante; and for the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to European parliamentary elections see para 224 et seq ante.

2 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; as to the returning officer at elections for the return of members of the National Assembly for Wales see para 362 ante; and as to returning officers for European parliamentary elections see para 365 et seq ante.

3 As to the elections rules see para 388 ante. See further *Akhtar v Jahan, Iqbal v Islam* [2005] All ER (D) 15 (Apr) at [536]–[548]; revsd in part, but not on this point, sub nom *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823.

4 Representation of the People Act 1983 ss 23(3), 48(1), 187(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(5). Where votes were wrongly rejected and the inclusion of such votes would have resulted in a tie (which is then determined by the returning officer by lot: see para 441 et seq ante), such a tie is a 'result' for these purposes: *Ruffle v Rogers* [1982] QB 1220, [1982] 2 All ER 157, CA. The 'result' means the success of one candidate over another and not merely an alteration in the number of votes given to each candidate: *Clare, Eastern Division Case* (1892) 4 O'M & H 162 at 164; *Islington, West Division Case* (1901) 5 O'M & H 120.

5 *Edgell v Glover* [2003] EWHC 2566 (QB), [2003] All ER (D) 44 (Nov) (threshold was not so high as to exclude the court from concluding that the result was affected when there was evidence before the court that the result was affected, but where there was also evidence that if further enquiries were carried out there was a remote possibility the conclusion would be shown to be wrong). See also *Re Kensington North Parliamentary Election* [1960] 2 All ER 150 at 153, [1960] 1 WLR 762 at 766 per Streatfield J (it is for the court to make up its mind on the evidence as a whole whether there was a substantial compliance with the law as to elections or whether the act or omission affected the result), distinguishing *Islington, West Division Case* (1901) 5 O'M & H 120 at 130 (approving *Gribbin v Kirker* (1873) IR 7 CL 30), where it was stated that the onus rests on the respondent of proving that the result of the election was not affected by the transgression; and see *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC.

6 *Morgan v Simpson* [1975] QB 151, [1974] 3 All ER 722, CA (44 ballot papers not stamped with official mark; result affected); and see *Gunn v Sharpe* [1974] QB 808, [1974] 2 All ER 1058, DC (102 unstamped ballot papers; result affected); *Considine v Didrichsen* [2004] EWHC 2711 (QB), [2004] All ER (D) 365 (Nov) (unascertained number of electors failed to receive proper ballot papers at an all-postal ballot; result presumed to be affected where winning margin was only seven votes). Cf *Woodward v Sarsons* (1875) LR 10 CP 733, explained in *Morgan v Simpson* supra (an election conducted substantially in accordance with the law as to elections is not vitiated by breaches of the elections rules or mistake at the polls provided that the result of the election not affected); *Islington, West Division Case* (1901) 5 O'M & H 120 (14 ballot papers issued after 8 pm; result of election not affected).

7 *Morgan v Simpson* [1975] QB 151 at 164, [1974] 3 All ER 722 at 728, CA, per Lord Denning MR, applying *Hackney Case* (1874) 2 O'M & H 77 (two polling stations closed all day; approximately 5,000 voters unable to vote). Intimidation that prevents free voting also avoids an election: *Dudley Case* (1874) 2 O'M & H 115 (riot in town). In *Akhtar v Jahan, Iqbal v Islam* [2005] All ER (D) 15 (Apr) (revsd in part, but not on this point, sub nom *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823) (cited in para 893 post), it was held that charges against the returning officer were not made out but it was observed that shortcomings in the conduct of the election invited the kind of abuses that led to the election being avoided due to extensive postal voting fraud.

8 *Howes v Turner* (1876) 1 CPD 670; *R v Glover* (1866) 15 LT 289.

9 As to publication of the notice of the election see para 203 et seq ante.

10 *Clare, Eastern Division Case* (1892) 4 O'M & H 162 at 164–166.

11 *Haverfordwest Case, Davies v Lord Kensington* (1874) LR 9 CP 720; *Mayo Case* (1874) 2 O'M & H 191.

12 *Wilson v Ingham* (1895) 64 LJQB 775, DC.

13 *Woodward v Sarsons* (1875) LR 10 CP 733, explained in *Morgan v Simpson* [1975] QB 151, [1974] 3 All ER 722, CA. Cf *Gunn v Sharpe* [1974] QB 808, [1974] 2 All ER 1058, DC (issue of 102 ballot papers not stamped with official mark affected result of election). See also the text and notes 6, 7 supra.

14 *Deans v Stevenson* 1882 9 R (Ct of Sess) 1077 at 1088. As to the effect of the failure to mark the counterfoils of the ballot papers with the numbers in the register see *Pickering v Startin* (1873) 28 LT 111.

15 *Clare, Eastern Division Case* (1892) 4 O'M & H 162; *East Kerry Case* (1911) 6 O'M & H 58 at 85; *Drogheda Borough Case* (1874) 2 O'M & H 201; *Worcester Borough Case* (1880) 3 O'M & H 184.

16 *Islington, West Division Case* (1901) 5 O'M & H 120 at 130; *Latham v Glasgow Corpn* 1921 SC 694 at 706; *Gribbin v Kirker* (1873) IR 7 CL 30; *Hackney Case* (1874) 31 LT 69.

17 *Re Pembroke Election Petition* [1908] 2 IR 433.

18 *Horsham Second Case* (1848) 1 Pow R & D 240 (packets not duly sealed); *Kidderminster Borough Case* (1850) 1 Pow R & D 260 at 262 (packets not duly endorsed); *Barnstaple Borough Case* (1853) 2 Pow R & D 206 (covering letter from the returning officer to the Clerk of the Crown not duly sent).

19 *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 139.

671. Defect in title of returning officer. An election[1] is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election[2].

1 Ie a parliamentary, local government, Welsh Assembly or European election. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante. As to European parliamentary elections see para 224 et seq ante.

2 Representation of the People Act 1983 ss 24(2), 35(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 20(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 14. As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; as to the returning officer at elections for the return of members of the National Assembly for Wales see para 362 ante; and as to returning officers for European parliamentary elections see para 365 et seq ante.

672. Validity of local government elections. A local government election or other election under the Local Government Act 1972[1], unless questioned by election petition within the period fixed by law for those proceedings, is deemed to have been to all intents a good and valid election[2].

1 For the meaning of 'local government election' see para 10 ante; and for the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Representation of the People Act 1983 ss 48(2), 187(2). As to petitions questioning local elections see para 760 et seq post.

673. Effect of failure to hold London borough election. If a municipal election in a London borough[1] is not held on the appointed day or within the appointed time, or becomes void, the municipal corporation is not thereby dissolved or disabled from acting[2].

1 As to the London boroughs see LONDON GOVERNMENT vol 29(2) (Reissue) para 30 et seq.

2 Representation of the People Act 1983 s 39(9).

(ii) Illegal Practices

A. IN GENERAL

674. Practices which are illegal. Certain acts or omissions (mainly but not exclusively made by the candidate or election agent) which contravene controls placed on the election campaign constitute illegal practices; these include: (1) meeting election expenses by accepting donations not provided to the candidate or election agent[1]; (2) knowingly incurring an expense in excess of the maximum amount of election expenses[2]; (3) paying election expenses otherwise than through the election agent[3]; (4) paying statute-barred claims for election expenses[4]; (5) paying election expenses out of time[5]; (6) failing to make the return or declaration as to election expenses[6]; (7) making an inaccurate return as to election expenses[7]; (8) failing to deliver or send the required returns or declarations of expenses authorised by the election agent[8]; (9) disturbing a meeting[9]; (10) making a false statement concerning the personal character or conduct of a candidate for the purpose of affecting the return of any candidate[10]; (11) knowingly publishing a false statement as to the withdrawal of a candidate for the purpose of promoting or procuring the election of another candidate[11]; (12) consenting to multiple nominations for candidacy at a European parliamentary election[12].

Some illegal practices arise also from the commission of an offence[13]; and a candidate or election agent who is personally guilty of making an illegal payment or employment is guilty also of an illegal practice[14].

1 See para 675 post.

2 See para 676 post. As to knowingly incurring expenses at elections under the Local Government Act 1972 where election agents are not required see para 681 post.

3 See para 677 post. As to paying expenses at elections under the Local Government Act 1972 where election agents are not required see para 681 post.

4 See para 678 post.
5 See para 678 post.
6 See para 679 post.
7 See para 679 post.
8 See para 680 post.
9 See para 682 post.
10 See para 683 post.
11 See para 683 post.
12 See para 684 post.
13 As to offences which also constitute illegal practices see para 702 et seq post.
14 See para 685 et seq post.

675. Meeting election expenses by accepting donations not provided to candidate or election agent. In the case of any candidate[1] at an election[2], any money or other property[3] provided (whether as a gift or loan) by any person other than the candidate or his election agent[4] and for the purpose of meeting election expenses[5] incurred by or on behalf of the candidate, must be provided to the candidate or his election agent[6]; and any person who provides any money or other property in contravention of this restriction is guilty of an illegal practice[7].

1 For the meaning of 'candidate' generally see para 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(1)). For the meaning of 'individual candidate' in relation to a Welsh Assembly regional election see para 237 note 23 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.
2 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. However, the Representation of the People Act 1983 s 71A (as added) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and para 681 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and para 678 post. For the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales generally see para 220 et seq ante; and as to European parliamentary elections see para 224 et seq ante.
3 As to the meaning of 'property' for these purposes see para 291 note 3 ante.
4 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.
5 For the meaning of 'election expenses' see para 274 ante.
6 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 71A(1) (as added), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(1) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(1); and para 291 ante.
7 Representation of the People Act 1983 s 71A(3) (s 71A added by the Political Parties, Elections and Referendums Act 2000 s 130(1), (2), (4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(3). As to excuses and the right to apply for relief see para 693 et seq post; and as to the consequences of illegal practices see para 886 et seq post.

676. Election expenses knowingly incurred by candidate or election agent in excess of financial limits. Where any election expenses[1] are incurred in excess of any maximum amount specified under the provisions which limit such expenses[2], any

candidate[3] or election agent[4] who incurred, or authorised the incurring of, the election expenses and knew or ought reasonably to have known[5] that the expenses would be incurred in excess of that maximum amount is guilty of an illegal practice[6].

The provisions which establish this offence as an illegal practice[7] have been applied with modifications for the purposes of local authority mayoral elections[8].

1 For the meaning of 'election expenses' see para 274 ante.

2 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 76(2) (as amended) and s 76(2A) (as added), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(3), or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(4); and see para 278 ante.

3 For the meaning of 'candidate' generally see para 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(1). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly regional election see para 237 note 23 ante. At a European parliamentary election, the reference is to an 'individual candidate': see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

4 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of an election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.

5 In previous enactments of the provision set out in the text, the word 'knowingly' was used and it was held that the word meant knowing at the time payment was made, or the expense incurred, that it was an election expense; and if, when the total of those expenses was added up, the total was in excess of the maximum, then the offence was complete; it was not necessary to prove that when a particular payment was made or expense incurred the candidate or election agent was aware that the maximum amount had been exceeded: *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1 at 19–20; *Oxford Borough Case* (1924) 7 O'M & H 49 at 67.

6 Representation of the People Act 1983 s 76(1B) (added by the Political Parties, Elections and Referendums Act 2000 s 132(1), (4), (6); and amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 71); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 45(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 47(3). As to excuses and the right to apply for relief see para 693 et seq post; and as to the consequences of illegal practices see para 886 et seq post.

The Representation of the People Act 1983 s 76(1B) (as added) does not apply at an election under the local government Act which is not a local government election: see the Representation of the People Act 1983 s 90(2) (as amended); and para 681 post. For the meaning of 'local government election' see para 10 ante. In relation to an election of parish councillors in England or of community councillors in Wales, where election agents are not required, s 76(1B) (as added) has effect as if for the references to an election agent there were substituted references to any agent of the candidate: s 90(1)(a) (amended by the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 paras 1, 11(a)). As to the election of parish and community councillors see para 207 et seq ante. For the meanings of 'England' and 'Wales' see para 13 note 1 ante. As to elections in the City of London see para 30 ante.

7 Ie under the Representation of the People Act 1983 s 76 (as amended) (see the text and notes 1–6 supra).

8 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

677. Payment of election expenses otherwise than by or through candidate's election agent. No payment[1], of whatever nature, may be made[2] either by a candidate[3] at an election[4] or by any other person, in respect of election expenses incurred by or on behalf of the candidate[5] unless it is made by or through the candidate's election agent[6]; and a person who makes any payment in contravention of this prohibition is guilty of an illegal practice[7].

1 As to the meaning of 'payment' see para 275 note 2 ante.

2 Ie subject to exceptions set out, in relation to a parliamentary or local government election, in the Representation of the People Act 1983 s 73(5) (as substituted and amended), in relation to a Welsh

Assembly election, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(4) or, in relation to a European parliamentary election, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(5) (see para 275 ante).

3 For the meaning of 'candidate' generally see para 237 ante. The reference in the text is to an 'individual candidate' for the purposes of: (1) a regional election for the return of members of the National Assembly for Wales (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1)); or (2) European parliamentary elections (European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1)). For the meaning of 'individual candidate' in relation to a Welsh Assembly regional election see para 237 note 23 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

4 Ie a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. However, the Representation of the People Act 1983 s 73 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and para 681 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and para 678 post. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante; as to elections to the National Assembly for Wales generally see para 220 et seq ante; and as to European parliamentary elections see para 224 et seq ante.

5 For the meaning of 'election expenses incurred by or on behalf of a candidate' see para 274 note 15 ante.

6 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 73(1) (as substituted), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(1), or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(1); and see para 275 ante. As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante. As to the nomination of a sub-agent at certain parliamentary and local government elections see para 240 ante; in relation to elections to the National Assembly for Wales see para 244 ante; and in relation to European parliamentary elections see para 248 ante.

7 Representation of the People Act 1983 s 73(6) (amended by the Political Parties, Elections and Referendums Act 2000 ss 138, 158(2), (3)(a), Sch 18 paras 1, 3(1), (6), Sch 22); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 41(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 43(6). The making of such a payment as is mentioned in the text remains an illegal practice even if the money is repaid (*York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 116), but where a payment was made through a person other than the election agent by mistake and the money was returned and the transaction was genuine and honest, it was held that no offence had been committed (*Monmouth Boroughs Case* (1901) 5 O'M & H 166 at 170). As to excuses and the right to apply for relief see para 693 et seq post; and as to the consequences of illegal practices see para 886 et seq post.

678. Payment of statute-barred claims for election expenses or of claims out of time. An election agent[1] who pays a claim for election expenses[2] which is submitted to him later than 21 days after the day on which the result of the election is declared[3] or who makes a payment after the expiry of the 28 days limit[4] is guilty of an illegal practice[5]. However, except in the case of a European parliamentary election, if the election court reports that it has been proved to the court by the candidate that any payment was made by an election agent without the candidate's sanction or connivance[6], the candidate's election is not void, nor is he subject to any incapacity by reason only of that payment having been made in contravention of the prohibition on the payment of a claim that is statute-barred or out of time[7].

At an election of parish councillors in England or of community councillors in Wales[8], if any person makes a payment[9] in contravention of the provision which bars any claim against any person in respect of any election expenses incurred by or on behalf of

a candidate which is not sent in[10] within 14 days after the day of election or the provision which bars the payment of any election expenses so incurred 21 days after the day of election[11], he is guilty of an illegal practice, but a candidate is not liable nor is his election void for any such illegal practice committed without his consent or connivance[12].

1 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante. In the case of a Welsh Assembly election, the reference is to a candidate or his election agent at a constituency election, or an individual candidate or his election agent at a regional election: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(1). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly regional election see para 237 note 23 ante. As to elections to the National Assembly for Wales generally see para 220 et seq ante. In the case of a European parliamentary election, the reference is to an individual candidate: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante. As to European parliamentary elections see para 224 et seq ante.

2 For the meaning of 'election expenses' see para 274 ante.

3 Ie in contravention of, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 78(1) (as amended), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(1) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1) (see para 280 ante).

4 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 78(2) (as amended), in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(2) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(2) (see para 280 ante).

5 Representation of the People Act 1983 s 78(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(4). As to excuses and the right to apply for relief see para 693 et seq post; and as to the consequences of illegal practices see para 886 et seq post. The Representation of the People Act 1983 s 78 (as amended) does not apply at an election under the local government Act which is not a local government election: see the Representation of the People Act 1983 s 90(2) (as amended); and para 681 post.

6 In the case of a Welsh Assembly election, the reference is to the sanction or connivance of a candidate at a constituency election or of an individual candidate at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(4).

7 Representation of the People Act 1983 s 78(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(4).

8 Ie where election agents are not required. As to the election of parish and community councillors see para 207 et seq ante. For the meanings of 'England' and 'Wales' see para 13 note 1 ante.

9 As to the meaning of 'payment' see para 275 note 2 ante.

10 It is not clear whether the claim must be in the possession of the person within the 14 days or merely have been dispatched within that time. However, to the extent that 'send' is synonymous with 'transmit', the latter construction is the correct one: see *MacKinnon v Clark* [1898] 2 QB 251 at 257, CA, per A L Smith LJ.

11 See the Representation of the People Act 1983 s 90(1)(b) (as amended), Sch 4 para 1(1); and para 299 ante.

12 Ibid Sch 4 para 1(2).

679. Failure to make required financial returns or declarations as to election expenses. If a candidate[1] or election agent[2] fails to comply with the requirements of the provisions governing returns as to election expenses[3] or declarations as to election expenses[4], he is guilty of an illegal practice[5]. A return which is defective, in that it omits certain election expenses or gives erroneous figures, also constitutes an illegal practice[6].

However, the delivery of the return and election agent's declaration separately and at different times but both within the prescribed period is apparently not an offence[7].

At an election of parish councillors in England or of community councillors in Wales[8], if the candidate fails to make the required return and declaration as to election expenses[9], he is guilty of an illegal practice[10].

1 For the meaning of 'candidate' generally see para 237 ante. In the case of a Welsh Assembly election, the reference is to a candidate at a constituency election or an individual candidate at a regional election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly election see para 237 note 23 ante. In the case of a European parliamentary election, the reference is to an individual candidate. For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

2 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.

3 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 81 (as amended), in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 50 or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51 (see para 285 ante). For the meaning of 'return as to election expenses' see para 286 note 1 ante.

4 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 82 (as amended), in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51 or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52 (see para 286 ante). For the meaning of 'declaration as to election expenses' see para 287 note 2 ante.

5 Representation of the People Act 1983 s 84; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 54; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 54. As to excuses and the right to apply for relief see para 693 et seq post; and as to the consequences of illegal practices see para 886 et seq post. The Representation of the People Act 1983 s 84 does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and para 681 post).

6 *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194; *Cork, Eastern Division Case* (1911) 6 O'M & H 318; *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1; *Oxford Borough Case* (1924) 7 O'M & H 49.

7 *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC.

8 Ie where election agents are not required. As to the election of parish and community councillors see para 207 et seq ante. For the meanings of 'England' and 'Wales' see para 13 note 1 ante.

9 See the Representation of the People Act 1983 s 90(1)(b) (as amended), Sch 4 para 3 (as amended); and para 300 ante.

10 Ibid Sch 4 para 5.

680. Failure to deliver or send returns or declarations of expenses authorised by election agent. If a person fails to deliver or send any declaration or return or a copy of it as required by the provisions which prohibit the incurring of election expenses[1] by any person other than the candidate[2], his election agent[3] and persons authorised in writing by the election agent[4], he is guilty of an illegal practice[5].

The provisions which establish this failure as an illegal practice[6] have been applied with modifications for the purposes of local authority mayoral elections[7].

1 For the meaning of 'election expenses' see para 274 ante. For the meaning of 'return as to election expenses' see para 286 note 1 ante; and for the meaning of 'declaration as to election expenses' see para 287 note 2 ante.

2 For the meaning of 'candidate' generally see para 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of

'individual candidate' in relation to a Welsh Assembly election see para 237 note 23 ante. At a European parliamentary election, the reference is to an 'individual candidate': see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

3 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante. In relation to a European parliamentary election, references to an election agent include a sub-agent: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(7). As to the appointment of a sub-agent at a European parliamentary election see para 248 et seq ante.

4 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 75(1) (as amended), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1), or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1); and see para 277 ante.

5 Representation of the People Act 1983 s 75(5) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 24); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5). As to the liability of officers of associations or bodies which are guilty of an offence, the court's power to mitigate or remit any incapacity and the limitation of the liability of a candidate for an offence by an agent see para 690 et seq post; and as to the consequences of illegal practices see para 886 et seq post.

The Representation of the People Act 1983 s 75 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and para 681 post); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and para 678 ante. For the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante.

6 Ie under ibid s 75 (as amended) (see the text and notes 1–5 supra).

7 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

681. Paying or incurring expenses at elections under the Local Government Act 1972 where election agent not required. At an election under the Local Government Act 1972[1] which is not a local government election[2], the general statutory provisions relating to election expenses[3] have no application[4]. If a candidate at such an election or any person on his behalf knowingly pays any sum or incurs any expense, whether before, during or after that election, on account of or in respect of the conduct or management of the election, he is guilty of an illegal practice[5].

1 See para 10 note 2 ante. In the application of the Representation of the People Act 1983 Pt II (ss 67–119) (as amended) to a poll consequent on a parish or community meeting, 'election under the local government Act' is deemed to include a reference to a poll consequent on a parish or community meeting (as to which see para 207 et seq ante): Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(g).

2 For the meaning of 'local government election' see para 10 ante.

3 Ie the Representation of the People Act 1983 ss 71A–89 (as amended) (see para 274 et seq ante).

4 See ibid s 90(2) (as amended); and para 302 ante.

5 Ibid s 90(2). As to the consequences of an illegal practice see para 886 et seq post.

682. Disturbing election or referendum meetings. Any person who at certain lawful public meetings[1] acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of an illegal practice[2]. If a constable reasonably suspects any person of committing an offence under this provision, he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address[3]. If that person refuses or fails so to declare his name and address or gives a false name and address, he is liable on summary conviction to a fine[4].

The provisions which establish this illegal practice[5] have been applied with modifications for the purposes of local authority referendums in England and in Wales[6] and for the purposes of local authority mayoral elections[7].

1 Ie certain political meetings held, in relation to a parliamentary election, in a parliamentary constituency or, in relation to a local government election, in the electoral area for that election or, in relation to a Welsh Assembly constituency election, in the Assembly constituency for which the election is held or, in relation to a Welsh Assembly regional election, in the Assembly electoral region for which the election is held or, in relation to a European Parliamentary election, in a European Parliamentary electoral region: see para 343 ante.

2 Representation of the People Act 1983 s 97(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(1). As to the punishment and consequences of illegal practices see para 886 et seq post.

3 Representation of the People Act 1983 s 97(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3).

4 Representation of the People Act 1983 s 97(3) (amended by the Police and Criminal Evidence Act 1984 ss 26(1), 119, Sch 7 Pt I); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3). The penalty is a fine not exceeding level 1 on the standard scale: see the Representation of the People Act 1983 s 97(3) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 69(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 68(3). As to the standard scale see para 736 note 3 post.

5 Ie under the Representation of the People Act 1983 s 97 (as amended) (see the text and notes 1–4 supra).

6 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

7 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

683. False statements as to candidates. A person[1] who, before or during an election[2], for the purpose of affecting the return of any candidate[3] at the election, makes or publishes any false statement[4] of fact in relation to the candidate's personal character or conduct is guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe[5], the statement to be true[6]. The false statement of fact need not be defamatory at common law[7], so long as it is a statement which is calculated to influence the electors, as, for instance, a statement made in a hunting county that the candidate has shot a fox or a statement made to promoters of total abstinence that the candidate has taken a glass of wine[8]; but it is essential that it should relate to the personal rather than the political character or conduct of the candidate[9]. It is irrelevant whether the statement complained of has or has not been provoked by a statement of a similar character made on the part of an opponent[10]. The words of the statement will be interpreted according to their real and true meaning, and not necessarily according to their literal sense[11]. However, a candidate at an election (other than a European parliamentary election) is not liable, nor is his election to be avoided, for any illegal practice relating to such false statements committed by his agent other than his election agent[12], unless: (1) it can be shown that the candidate or his election agent has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice[13], or (2) an election court finds and reports that the candidate's election was procured or materially assisted in consequence of the making or publishing of such a false statement[14].

Any person who before or during an election (other than a European parliamentary election) knowingly publishes a false statement of the withdrawal of a candidate[15] at the election for the purpose of promoting or procuring the election of another candidate is

guilty of an illegal practice[16]; but the candidate is not liable, nor may his election be avoided, for any such illegal practice committed by his agent other than his election agent[17].

1 Ie including any director of any body or association corporate.

2 Ie a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or (except for the provisions set out in the text and notes 12–17 infra) a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante; as to elections to the National Assembly for Wales generally see para 220 et seq ante; and as to European parliamentary elections see para 224 et seq ante.

3 For the meaning of 'candidate' generally see para 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate or any or all of a group of party list candidates (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(1). For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see para 237 note 23 ante. At a European parliamentary election, the reference is to any registered party or individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 71(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

4 The statement may be oral or written: *Cumberland, Cockermouth Division Case* (1901) 5 O'M & H 155.

5 The belief must in each case depend on the character and nature of the information given: *Sunderland Borough Case, Storey v Doxford* (1896) 5 O'M & H 53 at 65.

6 Representation of the People Act 1983 s 106(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 71(1). As to remedy by way of interim or perpetual injunction to restrain a person from any repetition of a false statement or of a false statement of a similar character in relation to the candidate see para 669 ante. As to whether statute bars a plea of qualified privilege as respects defamatory statements by or on behalf of a candidate at an election see the Defamation Act 1952 s 10 (prospectively amended); and para 335 ante.

7 In some senses the words of the provision are narrower and in some senses wider than is consistent with the law of libel: *St George's Division, Tower Hamlets, Case* (1895) 5 O'M & H 89 at 101, 103–104.

8 *Sunderland Borough Case, Storey v Doxford* (1896) 5 O'M & H 53 at 62 per Pollock B. This is not of course a decision that such words could not in any circumstances bear a defamatory meaning at common law, but that it is not necessary to give them such a defamatory meaning in order to bring them within the provision.

9 *Cumberland, Cockermouth Division Case* (1901) 5 O'M & H 155 at 164; *Sheffield, Attercliffe Division Case* (1906) 5 O'M & H 218; *Fairbairn v Scottish National Party* 1979 SC 393. Cf *Anon* (1897) reported in Jelf's Corrupt and Illegal Practices Prevention Acts (3rd Edn) 215; but see also *Bayley v Edmunds, Byron and Marshall* (1895) 11 TLR 537, CA, where a charge that the candidate 'hypocritically feeling in his conscience that he was doing wrong for the purpose of making large profits for himself, locked out his workmen for a certain length of time, and that then, some time afterwards, he found that his conscience reproved him, and resolved he would starve them no longer', was held to be within the provision. A statement that a candidate would not pay his hotel bill or debts is within the provision: *Davies v Ward* (1910) Times, 18 January. On the other hand a statement that a candidate is a communist is not within the provision: *Burns v Associated Newspapers Ltd* (1925) 89 JP 205. The words 'radical traitors' were held to be not within the provisions, as being a statement of opinion rather than of fact: *Ellis v National Union of Conservative and Constitutional Associations, Middleton and Southall* (1900) 44 Sol Jo 750. See also *Sunderland Borough Case* (1896) 5 O'M & H 53 at 62, where it was said that a mere argumentative statement of the conduct of a public man, even though in respect of his private life, is not always, and in many cases certainly would not be, within this provision; and *DPP v Edwards* [2002] EWHC 636 (Admin), [2002] All ER (D) 314 (Mar), where it was found that the statement '[K] whilst sitting as chairman of housing hands his son-in-law's company a £125,000 building contract' did relate to the personal conduct of K because it clearly attributed personal and private motives to the decision to allocate the contract to the company and a distinction is made between an act of the authority through the committee assigning contracts, which was a public act, and the role that K might have had in the decision-making process that led to the allocation of the contract, which was not.

10 *Monmouth Boroughs Case* (1901) 5 O'M & H 166 at 173.

11 *Silver v Benn* (1896) 12 TLR 199 at 200, DC (where Kay LJ speaks of 'what the passage meant to convey'). The question to be determined is what in the circumstances is the true meaning which the reader would place upon the statements: *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 154–157. The true meaning will depend on the occasion of the publication, the persons publishing, the person attacked and the readers intended to be addressed: *Louth, Northern Division Case* supra at 158; and see *Sheffield, Attercliffe Division Case* (1906) 5 O'M & H 218 at 223. This is inconsistent, however, with dicta in *Ellis v National Union of Conservative and Constitutional Associations, Middleton and Southall* (1900) 44 Sol Jo 750, where the published statement was construed literally and the question of innuendo was disregarded. But in *Fairbairn v Scottish National Party* 1979 SC 393 the court took account of the innuendo that the words were reasonably capable of bearing.

12 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; and as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante. In the application of the provision set out in the text to an election where the candidate is not required to have an election agent (as to which see para 238 note 3 ante), the reference to an illegal practice committed by an agent of the candidate is to be taken as a reference to an illegal practice committed without the candidate's knowledge and consent and the reference to the election agent is omitted: Representation of the People Act 1983 s 106(7). In the case of a Welsh Assembly election, the reference is to, in the case of an individual candidate, his agent other than his election agent but, in the case of a party list candidate, the agent of any or all of the candidates on the list other than their election agent: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(2).

13 Representation of the People Act 1983 s 106(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(2)(i).

14 Representation of the People Act 1983 s 106(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(2)(ii).

15 Ie, at a Welsh Assembly election, the withdrawal of an individual candidate or of any or all of a group of party list candidates: ibid art 72(4).

16 Representation of the People Act 1983 s 106(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(4).

17 Representation of the People Act 1983 s 106(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(5). In the application of this provision to an election where a candidate is not required to have an election agent (as to which see para 238 note 3 ante), the reference to an illegal practice committed by an agent of the candidate is to be taken as a reference to an illegal practice committed without the candidate's knowledge and consent and the reference to the election agent is omitted: Representation of the People Act 1983 s 106(7). At a Welsh Assembly election, the reference is, in the case of an individual candidate, his agent other than his election agent but, in the case of a party list candidate, the agent of any or all of the candidates on the list other than their election agent: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 72(5).

684. Illegal practices connected with candidature at European parliamentary general election. A person who, at a general election of members of the European Parliament ('MEPs')[1]: (1) consents to nomination as an individual candidate[2] in more than one electoral region[3]; (2) consents to nomination as an individual candidate in an electoral region and consents to being nominated in a list submitted by a registered party[4], whether in that region or some other[5]; (3) consents to being nominated in the list submitted by more than one registered party in the same region[6]; or (4) consents to being nominated in the lists submitted by a registered party or parties for more than one region[7], is guilty of an illegal practice[8].

If a person, on any occasion when[9] elections to the European Parliament are held in all member states, stands as a candidate at such an election in the United Kingdom and in any other member state, he is guilty of an offence[10]; and such an offence is an illegal practice[11].

1 As to European parliamentary general elections see para 224 ante.

2 As to the requirement for a candidate to consent to nomination see para 265 ante. For the meaning of 'individual candidate' in the context of a European parliamentary election see para 237 note 32 ante.

3 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 28(2)(a). As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante.

4 For the meanings of 'list' and 'registered party' in relation to European parliamentary elections see para 237 note 30 ante.

5 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 28(2)(b).
6 Ibid reg 28(2)(c).
7 Ibid reg 28(2)(d).
8 Ibid reg 28(2). As to the consequences of illegal practices see para 886 et seq post.
9 Ie under the 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') art 10 (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)), annexed to ECSC, EEC and Euratom Decision 76/787 (OJ L278, 08.10.76, p 1) (see para 6 ante).
10 European Parliamentary Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1994, SI 1994/342, reg 4(1) (amended by the European Parliamentary Elections (Common Electoral Principles) Regulations 2004, SI 2004/1374, reg 4).
11 European Parliamentary Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1994, SI 1994/342, reg 4(2). The text refers to an illegal practice within the meaning of the Representation of the People Act 1983, and the provisions of that Act which relate to illegal practices, as applied by regulations under the European Parliamentary Elections Act 2002, accordingly have effect in relation to any such offence: European Parliamentary Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1994, SI 1994/342, reg 4(2).

B. ILLEGAL PAYMENT, EMPLOYMENT OR HIRING

685. Illegal payment or employment by candidate or election agent. The following are illegal payments or employments: (1) payment to induce the corrupt withdrawal of a candidate[1]; (2) payment to an elector or proxy for the exhibition of election notices[2]; (3) the employment of a paid canvasser[3]; (4) the provision of money for any prohibited payment[4]; (5) the provision of money in excess of the maximum allowed for election expenses[5].

A person guilty of an offence of illegal payment or employment is liable, on summary conviction, to a fine[6]; but a candidate[7] or election agent[8] who is personally guilty of an offence of illegal payment or employment is guilty of an illegal practice[9].

1 See para 686 post.
2 See para 687 post.
3 See para 688 post.
4 See para 689 post.
5 See para 689 post.
6 See para 887 post. The penalty is a fine not exceeding level 5 on the standard scale: see para 887 post. As to the standard scale see para 736 note 3 post.
7 For the meaning of 'candidate' generally see para 237 ante.
8 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.
9 Representation of the People Act 1983 s 175(2) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(2). If an offence of illegal payment or employment is committed with the candidate's knowledge and consent at an election where candidates are not required to have election agents (as to which see para 238 note 3 ante), the candidate is guilty of an illegal practice: Representation of the People Act 1983 s 175(2) (as so amended). As to the circumstances in which relief is available see para 690 et seq post; and as to the consequences of illegal payment or employment see para 887 post.

686. Inducing or procuring corrupt withdrawal of candidate by illegal payment. Any person who corruptly induces or procures another person to withdraw from being a candidate[1] at an election[2] in consideration of a payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, is guilty of an illegal payment[3].

1 For the meaning of 'candidate' generally see para 237 ante. At a European parliamentary election, the reference is to an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 72. For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

2 Ie a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections in the City of London see para 30 ante; as to elections to the National Assembly for Wales generally see para 220 et seq ante; and as to European parliamentary elections see para 224 et seq ante.

3 Representation of the People Act 1983 s 107; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 73; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 72. A candidate or election agent who is personally guilty of the offence is guilty of an illegal practice: see para 685 ante. As to the circumstances in which relief is available see para 690 et seq post; and as to the consequences of illegal payment or employment see para 887 post.

687. Illegal payments for exhibition of election notices. For the purposes of promoting or procuring the election of a candidate[1] at an election[2], no payment or contract for payment may be made to an elector or proxy for an elector on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address[3], bill[4] or notice, unless it is the ordinary business of the elector or proxy as an advertising agent[5] to exhibit for payment bills and advertisements and the payment or contract is made in the ordinary course of that business[6]. If any payment or contract for payment is knowingly made in contravention of this provision either before, during or after an election, the person making the payment or contract, and if he knew it to be in contravention of this provision, any person receiving the payment or being a party to the contract, is guilty of an illegal practice[7].

The provisions which establish this illegal practice[8] have been applied with modifications for the purposes of local authority referendums in England and in Wales[9].

1 For the meaning of 'candidate' generally see para 237 ante. At a European parliamentary election, the reference is to a registered party or an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 73(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

2 Ie a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections in the City of London see para 30 ante; as to elections to the National Assembly for Wales generally see para 220 et seq ante; and as to European parliamentary elections see para 224 et seq ante. For the meaning of references to promoting or procuring a candidate's election at an election see para 274 note 4 ante.

3 An address appears to cover anything which is in the nature of an appeal to a voter to vote for a particular candidate: *Exeter Case* (1911) 6 O'M & H 228 at 249. A special election edition of a local newspaper, designed to promote the election of a particular candidate and authorised by the candidate, was held to be an address: *Oxford Borough Case* (1924) 7 O'M & H 49 at 83. See also *Barrow-in-Furness Case* (1886) 4 O'M & H 76; *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37.

4 As to what may constitute a bill see para 751 note 29 post.

5 See *Exeter Case* (1911) 6 O'M & H 228 at 242.

6 Representation of the People Act 1983 s 109(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 74(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 73(1).

7 Representation of the People Act 1983 s 109(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 74(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 73(2). A candidate or election agent who is personally guilty of the offence is guilty of

an illegal practice: see para 685 ante. As to the liability of officers of associations or bodies which are guilty of an offence, the court's power to mitigate or remit any incapacity and the limitation of the liability of a candidate for an offence by an agent see para 690 et seq post; and as to the consequences of illegal practices see para 886 et seq post.

8 Ie under the Representation of the People Act 1983 s 109 (see the text and notes 1–7 supra).

9 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67–119) (as amended, applied and modified) (see para 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

688. Illegal employment of paid canvassers. If, for the purpose of promoting or procuring a candidate's election or promoting or procuring electoral success for a party[1], a person is, either before, during or after an election[2], engaged or employed for payment or promise of payment as a canvasser, the person so engaging or employing him and the person so engaged or employed are guilty of illegal employment[3].

A person who is lawfully engaged or employed for payment for some lawful purpose is not, however, deprived of the ordinary right of a citizen to canvass, and he may therefore canvass so long as it is not for his canvassing that he is paid[4]. Although the payment of canvassers is illegal, there is nothing illegal in the payment of the expenses of a canvass[5].

The provisions which establish this illegal practice[6] have been applied with modifications for the purposes of local authority referendums in England and in Wales[7].

1 For the meaning of 'candidate' generally see para 237 ante. At a European parliamentary election, the reference is to a registered party or an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 75. For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

2 Ie a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections in the City of London see para 30 ante; as to elections to the National Assembly for Wales generally see para 220 et seq ante; and as to European parliamentary elections see para 224 et seq ante. For the meaning of references to promoting or procuring a candidate's election at an election or to promoting or procuring electoral success for a party see para 274 note 4 ante.

3 Representation of the People Act 1983 s 111; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 76; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 75. A candidate or election agent who is personally guilty of the offence is guilty of an illegal practice: see para 685 ante. As to the circumstances in which relief is available see para 690 et seq post; and as to the consequences of illegal payment or employment see para 887 post.

4 *Stafford County, Lichfield Division Case* (1895) 5 O'M & H 27 at 28–29; cf *Elgin and Nairn Case* (1895) 5 O'M & H 1 at 13.

5 *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619 at 625.

6 Ie under the Representation of the People Act 1983 s 111 (see the text and notes 1–3 supra).

7 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67–119) (as amended, applied and modified) (see para 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and

modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

689. Providing money for prohibited payment or for expenses incurred in excess of the maximum amount. It is an illegal payment if any person knowingly provides money for any payment which is contrary to the provisions governing elections[1], or for any expenses incurred in excess of the maximum amount so allowed[2], or for replacing any money expended in any such payment or expenses, except where the payment or the incurring of the expenses may have been previously allowed[3] to be an exception[4].

The provisions which establish such activity as an illegal practice[5] have been applied with modifications for the purposes of local authority referendums in England and in Wales[6].

1 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293 (see para 388 ante). It is thought that the prohibition in the Representation of the People Act 1983 s 75 (as amended) (expenses incurred by outsiders in publicising a candidate or in promoting political debate at an election: see para 277 ante) is not a prohibition on a payment of money.

2 As to that maximum amount see para 278 ante.

3 Ie under mitigation (see para 693 et seq post).

4 Representation of the People Act 1983 s 112; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 77; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 76. A candidate or election agent who is personally guilty of the offence is guilty of an illegal practice: see para 685 ante. As to the circumstances in which relief is available see para 690 et seq post; and as to the consequences of illegal payment or employment see para 887 post.

5 Ie under the Representation of the People Act 1983 s 112 (see the text and notes 1–4 supra).

6 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67–119) (as amended, applied and modified) (see para 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

C. RELIEF

690. Relief in respect of failure to deliver or send returns or declarations of expenses authorised by election agent. If a person fails to deliver or send any declaration or return as to election expenses[1] or a copy of it as required, he is guilty of an illegal practice[2].

The court before which a person is convicted may, however, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of the conviction[3].

A candidate at a parliamentary[4] or local government[5] or Welsh Assembly election[6] is not liable, nor is his election avoided, for such an illegal practice committed by an agent without his consent or connivance[7]. Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be an illegal practice by this provision, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or who was purporting to act in any such capacity, is to be deemed to be guilty of that

offence, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances[8].

The provisions which establish this illegal practice[9] have been applied with modifications for the purposes of local authority mayoral elections[10].

1 For the meaning of 'election expenses' see para 274 ante. For the meaning of 'return as to election expenses' see para 286 note 1 ante; and for the meaning of 'declaration as to election expenses' see para 287 note 2 ante.
2 Representation of the People Act 1983 s 75(5) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 24); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5); and see para 284 ante. As to the punishment of illegal practices see para 886 post; as to the other consequences of illegal practices see para 904 et seq post.
3 Representation of the People Act 1983 s 75(5)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5). As to such incapacity see para 904 post.
4 For the meaning of 'parliamentary election' see para 9 ante.
5 For the meaning of 'local government election' see para 10 ante.
6 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
7 Representation of the People Act 1983s 75(5)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(ii). As to the avoidance of elections see paras 892–894 post.
8 Representation of the People Act 1983 s 75(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(6).
9 Ie under the Representation of the People Act 1983 s 75 (as amended) (see the text and notes 1–8 supra).
10 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

691. Relief in respect of returns or declarations as to election expenses. In respect of contraventions of the statutory requirements[1] regarding returns or declarations as to election expenses[2], a candidate[3] at an election[4] or his election agent[5] may apply for relief to the High Court, an election court or a county court[6]. Where a person makes such an application he must notify the Director of Public Prosecutions of it, who may attend the hearing of it and make representations at the hearing in respect of it[7]. Relief may be granted to a candidate in respect of any failure to deliver the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement in them[8]. Relief may be granted to an election agent in respect of the failure to deliver the return and declarations which he was required to deliver, or any part of them, or in respect of any error or false statement in them[9]. The candidate may apply for relief on the ground that the failure, error or false statement arose by reason of his illness[10], or of the absence, death, illness[11] or misconduct of his election agent or sub-agent or of any clerk or officer of that agent[12], or by reason of inadvertence or any reasonable cause of a like nature[13], and not by reason of any want of good faith on the part of the applicant[14]. The election agent may apply for relief on the ground that the failure, error or false statement arose by reason of his illness[15] or of the death or illness of any prior election agent of the candidate or of the absence, death, illness or misconduct of any sub-agent, clerk or officer of an election agent of a candidate[16] or by reason of inadvertence, or any reasonable cause of a like nature[17], and not by reason of any want of good faith on the part of the applicant[18].

After such notice of an application in the parliamentary constituency[19] or local government area[20] or the Welsh Assembly constituency or Assembly electoral region[21] or the European parliamentary electoral region[22] (as the case may be) as the court considers fit, and on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit, the court may make

such order for allowing an authorised excuse for the failure, error or false statement as it considers just[23]. Where, on such an application, it appears to the court that any person who is or has been an election agent or sub-agent[24] has refused or failed to make such return or to supply such particulars as will enable the candidate and his election agent respectively[25] to comply with the statutory provisions as to returns or declarations as to election expenses[26], the court, before making an order allowing an authorised excuse, must order that person to attend before it[27]. On the attendance of that person, the court must, unless he shows cause to the contrary, order him to make the return and declaration or to deliver a statement of the particulars required to be contained in the return as it considers just, within such time, to such person and in such manner as it may direct, or may order him to be examined with respect to the particulars[28]. If a person fails to comply with any order of the court, it may order him to pay a fine[29].

An order allowing an authorised excuse may make the allowance conditional upon the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of the statutory provisions relating to the matter[30]. Such an order relieves the applicant for the order from any liability or consequences under the provisions governing elections[31] in respect of the matter excused by the order[32]. Where it is proved to the court by the candidate at a parliamentary or local government or Welsh Assembly election that any act or omission of the election agent in relation to the return and declarations was without the candidate's sanction or connivance, and that the candidate took all reasonable means for preventing the act or omission, the court must relieve the candidate from the consequences of his election agent's act or omission[33]. The date of the order, or, if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is called, for the purpose of a parliamentary or local government or Welsh Assembly election, 'the date of the allowance of the excuse'[34].

1 As to the requirement to prepare and send returns and declarations as to election expenses where the expenses are authorised by an election agent see para 284 et seq ante; and as to the requirement to prepare and send returns and declarations as to election expenses in relation to an election of parish or community councillors, at which an election agent is not required, see para 300 ante. As to a failure to meet the requirements for such financial returns or declarations see para 679 ante; and as to a failure to deliver or send such returns or declarations see para 680 ante.

2 For the meaning of 'election expenses' see para 274 ante. For the meaning of 'return as to election expenses' see para 286 note 1 ante; and for the meaning of 'declaration as to election expenses' see para 287 note 2 ante.

3 For the meaning of 'candidate' generally see para 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or an individual candidate (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(1). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'individual candidate' in relation to a Welsh Assembly election see para 237 note 23 ante. At a European parliamentary election, the reference is to an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

4 Ie a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante; as to elections to the National Assembly for Wales generally see para 220 et seq ante; and as to European parliamentary elections see para 224 et seq ante.

5 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see

para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.

6 Representation of the People Act 1983 s 86(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(1).

7 Representation of the People Act 1983 s 86(1A) (added by the Representation of the People Act 1985 s 24, Sch 4 para 30(a)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(2). In place of the Director of Public Prosecutions, his assistant or any barrister or solicitor duly appointed as the Director's representative may attend the hearing and make representations: Representation of the People Act 1983 s 86(1A) (as so added); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(2). As to applications made in relation to a European parliamentary election held in the combined region (as to which see para 76 ante) see reg 55(8), (9).

8 Representation of the People Act 1983 s 86(2)(a) (s 86(2) amended by the Representation of the People Act 1985 Sch 4 para 30); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(3)(a).

9 Representation of the People Act 1983 s 86(2)(b) (as amended: see note 8 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(3)(b).

10 Representation of the People Act 1983 s 86(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(a). For an instance see *Re Lloyd George's Application* (1932) 76 Sol Jo 166.

11 For instances of illness of an election agent see *Ipswich Case* (1887) 3 TLR 397, DC; *Re Walworth Election* (1911) Times, 9 February.

12 Representation of the People Act 1983 s 86(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(b). As to the nomination of a sub-agent at certain parliamentary and local government elections see para 240 ante; in relation to elections to the National Assembly for Wales see para 244 ante; and in relation to European parliamentary elections see para 248 ante.

13 Representation of the People Act 1983 s 86(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(d). For consideration of the meaning of 'inadvertence' and 'reasonable cause of a like nature' see paras 694–695 post. For cases relating to returns and declarations in which relief has been granted see para 696 post.

14 Representation of the People Act 1983 s 86(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4).

15 Representation of the People Act 1983 s 86(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(a).

16 Representation of the People Act 1983 s 86(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(c).

17 Representation of the People Act 1983 s 86(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4)(d). See also note 13 supra.

18 Representation of the People Act 1983 s 86(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(4).

19 For the meaning of 'parliamentary constituency' see para 9 ante.

20 For the meaning of 'local government area' see para 18 note 2 ante.

21 For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.

22 As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante.

23 Representation of the People Act 1983 s 86(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(5).

24 For the purposes of a European parliamentary election, references to the election agent or sub-agent include a person authorised in writing by the election agent or any sub-agent to incur election expenses: ibid reg 56(4).

25 For the purposes of a Welsh Assembly election, the reference is to a candidate and his election agent at a constituency election or to an individual candidate and his election agent at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(1).
26 See note 2 supra.
27 Representation of the People Act 1983 s 87(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 56(1).
28 Representation of the People Act 1983 s 87(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 56(2).
29 Representation of the People Act 1983 s 87(3) (amended by the Representation of the People Act 1985 Sch 4 para 31); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 56(3). The penalty is a fine not exceeding the amount of the maximum fine to which he would be liable if at the time the order is made he were convicted of a summary offence on conviction of which he was liable to a fine of level 5 on the standard scale: see the Representation of the People Act 1983 s 87(3) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 57(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 56(3). As to the standard scale see para 736 note 3 post.
30 Representation of the People Act 1983 s 86(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(6). The text refers to the objects of, in relation to a parliamentary or local government election, the Representation of the People Act 1983 Pt II (ss 67–119) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35–84) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31–81) (as amended).
31 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293 (see para 388 ante).
32 Representation of the People Act 1983 s 86(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 55(7).
33 Representation of the People Act 1983 s 86(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(6). As to what those consequences might otherwise be see para 899 et seq post.
34 Representation of the People Act 1983 s 86(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 56(9).

692. Relief in respect of returns or declarations as to election expenses at parish or community council elections. If the candidate at an election of parish or community councillors[1] applies to the High Court, an election court or the county court[2] and shows that any failure to make the required return and declaration as to election expenses[3] or either of them, or any error or false statement in them, has arisen by reason of his illness[4] or absence[5], or the absence, death, illness or misconduct of any agent, clerk or officer[6], or inadvertence or any reasonable cause of a like nature[7] and not by reason of any want of good faith on his part[8], then, after such notice of the application as the court considers fit[9] and on production of such evidence of the grounds stated in the application and of the good faith of the applicant and otherwise as it considers fit[10], the court may make such order allowing the authorised excuse for the failure, error or false statement as it considers just[11]. An appeal lies to the High Court from any such order made by a county court[12].

1 As to the election of parish or community councillors see para 207 et seq ante. As to elections in the City of London see para 30 ante.
2 The jurisdiction vested in the county court may be exercised otherwise than in open court: Representation of the People Act 1983 s 90(1)(b) (as amended), Sch 4 para 9(a).
3 As to the duty to make such return and declaration see para 300 ante.
4 See also para 691 ante.
5 Representation of the People Act 1983 Sch 4 para 7(1)(a).

6 Ibid Sch 4 para 7(1)(b).
7 Ibid Sch 4 para 7(1)(c). For consideration of the meaning of 'inadvertence' and 'reasonable cause of a like nature' see paras 694–695 post. For cases relating to returns and declarations in which relief has been granted see para 696 post.
8 Ibid Sch 4 para 7(1).
9 Ibid Sch 4 para 7(1)(i).
10 Ibid Sch 4 para 7(1)(ii).
11 Ibid Sch 4 para 7(1). The order may make the allowance conditional on compliance with such terms as to the court seem best calculated for carrying into effect the objects of Sch 4 (as amended) (see para 299 ante), and the order relieves the applicant from any liability or consequence under the Representation of the People Act 1983 in respect of the matters excused by the order: Sch 4 para 7(2). The date of the order, or if conditions and terms are to be complied with, the date on which the applicant fully complies with them, is called for this purpose 'the date of the allowance of the excuse': Sch 4 para 7(3).
12 Ibid Sch 4 para 9(b). As to appeals to the High Court generally see PRACTICE AND PROCEDURE vol 37 (Reissue) para 1502.

693. Relief in respect of illegal practice, payment, employment or hiring. If any act or omission of any person is likely to constitute an illegal practice, payment, employment or hiring[1], an application for relief may be made in all cases to an election court or to the High Court[2], although an application for relief in respect of payment of a claim for election expenses sent in late, or the payment of such expenses after time[3], may be made to a county court[4].

Where a person makes such an application he must notify the Director of Public Prosecutions of it and the Director or his assistant or representative may attend at the hearing and make representations at the hearing in respect of it[5]. If under the circumstances it seems to the court to be just that either the offender or any other person should not be subject to any of the consequences of the act or omission constituting the offence, the court may make an order allowing the act or omission to be an exception from the statutory provisions making it an illegal practice, payment, employment or hiring, and thereupon no person is subject to any of the consequences of the act or omission[6]. An applicant for such relief must show to the court by such evidence as to the court seems sufficient[7]: (1) that any act or omission of any person would be, but for the provisions allowing relief, by reason of being in contravention of the provisions governing elections[8], an illegal practice, payment, employment or hiring[9]; (2) that the act or omission arose from inadvertence[10], or from accidental miscalculation or from some other reasonable cause[11] of a like nature, and in any case did not arise from any want of good faith[12]; and (3) that such notice of the application has been given in the parliamentary constituency[13] or area of the authority[14] or the Welsh Assembly constituency or Assembly electoral region[15] or the European parliamentary electoral region[16] or the voting area[17] (as the case may be) for which the election or referendum was held, as to the court seems fit[18].

1 There is no relief under this provision in respect of any corrupt practice: *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84, 54 LT 625; *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 223. As to special provision for relief in the case of failure to make proper returns and declarations as to election expenses see para 691 ante.
2 Representation of the People Act 1983 s 167(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(1). The Representation of the People Act 1983 s 167 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
3 Ie payments made in contravention of, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 78(1), (2) (as amended) or, in relation to a parish or community council election, s 90, Sch 4 para 1 (s 90 as amended) or, in relation to a Welsh Assembly election, the

National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 47(1)–(3) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 48(1), (2) (see para 280 ante).

4 Representation of the People Act 1983 s 167(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(1); and see note 2 supra. As to the procedure on the application see paras 699–701 post.

5 Representation of the People Act 1983 s 167(1A) (added by the Representation of the People Act 1985 s 24, Sch 4 para 56); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(2); and see note 2 supra.

6 Representation of the People Act 1983 s 167(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(3); and see note 2 supra. See also *Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 at 144.

7 Mere assertions are insufficient; evidence must be forthcoming: *Ex p Perry* (1884) 48 JP 824, DC; and see *Ex p Haseldine* (1895) 59 JP 71, DC.

8 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293 (see para 388 ante).

9 Representation of the People Act 1983 s 167(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(3)(a); and see note 2 supra. An application must not be made hypothetically in respect of certain matters if found by the court to be illegal: *Walsall Case* (1892) as cited in Day 76.

10 For the meaning of 'inadvertence' see para 694 post.

11 For an example of what may constitute reasonable cause see para 695 post.

12 Representation of the People Act 1983 s 167(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(3)(b); and see note 2 supra. For an example of an application for relief under the Representation of the People Act 1983 s 167 (as amended) that was granted see *Re Terry* [2003] All ER (D) 404 (Jul) (although the applicant had made disclosure of all of his breaches only under pressure, relief was granted because the failures had been inadvertent and the court had noted the view of the Director of Public Prosecutions that the breaches had not resulted from any want of good faith).

13 For the meaning of 'parliamentary constituency' see para 9 ante.

14 As to the area of the authority for which a local government election is held see para 10 ante.

15 For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.

16 As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante.

17 For the meaning of 'voting area' see para 582 note 2 ante.

18 Representation of the People Act 1983 s 167(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 118(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 108(3)(c); and see note 2 supra. As to the notice of application for relief see further para 699 post.

694. Inadvertence as ground for relief in respect of illegal practice, etc.

'Inadvertence' means negligence or carelessness where the circumstances show an absence of bad faith[1]. Inadvertence may proceed from the applicant not knowing what was done or not knowing that it was wrong[2].

Ignorance of the law may in certain circumstances amount to inadvertence[3]. If a non-qualified person consults a legally qualified person and receives bad advice, he is not to be penalised on that account, but if he acts on the advice of non-qualified persons in the hope that his action is legal and it is not, he is liable to be refused relief for taking the risk[4]. Similarly, relief will be granted if a person is misled by a textbook on election law[5]. If any person, after reading the text of a statute or regulations, fails to understand an obscure or difficult point, he may be relieved, but not if the matter is set out clearly[6]; relief in such cases may be more readily granted where the legislation is new[7]. On the other hand relief granted to a candidate or other person on the ground of ignorance

might be refused to an election agent on the ground that it was his duty to acquaint himself with the law[8]. Relief has been granted to an applicant who claimed that he had been misled by his parliamentary experience and had not appreciated that a difference existed between parliamentary and local government election law[9].

The fact that the election contest was severe is not a ground for allowing payments of expenses in excess of the maximum[10]. However, where inadvertence on the part of an election agent was caused mainly by the stressful and unpleasant media attention directed towards her as a result of allegations made against the candidate, relief was granted for a failure on the part of the agent to return a properly-witnessed declaration[11].

1 *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC; *Re County Council Elections, ex p Lenanton, ex p Pierce* (1889) 53 JP 263, DC; *Re Bedwellty Constituency Parliamentary Election, ex p Finch* (1965) 109 Sol Jo 514, 63 LGR 406 (carelessness will not prevent relief being granted provided it does not approach recklessness). See *Clark v Butcher* [2001] All ER (D) 396 (Nov), QBD (although it was not desirable simply to rely on a returning officer's circular as to the maximum expenses, and the applicants' approach to calculating the maximum expenses and apportionment had been somewhat lacking, the applicants' conduct amounted to nothing more than inadvertence and the respondents had failed to show that there had been a lack of good faith).

2 *Stepney Borough Case, Rushmere v Isaacson* (1892) as reported in 4 O'M & H 178 at 182, Day 116 at 120 per Cave J.

3 *Nichol v Fearby* [1923] 1 KB 480, a decision relating to a failure to make a return of election expenses (as to which see para 680 ante). In *Nichol v Fearby* supra at 498, McCardie J expressed the view that dicta must be deemed overruled which did not allow for ignorance of the law to fall within the word 'inadvertence' (he had earlier cited dicta to such effect in *Walsall Borough Case* (1892) 4 O'M & H 123 at 128 per Pollock B and at 129 per Hawkins J and in *West Bromwich Case* (1911) 6 O'M & H 256 at 289 per Bucknill J). In *Nichol v Fearby* supra at 498–499, McCardie J found support for the preferred view that ignorance of the law may amount to inadvertence in *Stepney Borough Case, Rushmere v Isaacson* (1892) as reported in 4 O'M & H 178 at 182, Day 116 at 120 per Cave J; *Southampton Borough Case* (1895) 5 O'M & H 17 at 26 per Bruce J; *West Bromwich Case* supra at 287 per Ridley J; and *Ex p Caine* (1922) 39 TLR 100, DC. See also *Worcester City Case, ex p Williamson* (1906) 51 Sol Jo 14; *Worcester Borough Case, ex p Caldicote* (1907) 51 Sol Jo 593; *Munro and M'Mullen v Mackintosh* 1920 SC 218; *Smith and Sloan v Mackenzie* 1919 SC 546.

4 *Re School Board Election, ex p Montefiore* (1888) 5 TLR 78, DC; *Re County Councils' Elections, Layton and Woodbridge's Case* (1889) 5 TLR 198, DC; *Re County Councillors Elections, Meason's Case* (1889) 5 TLR 220 at 221, DC; *Rotherhithe Divisional Case, ex p Payne* (1894) Times, 2 November; *Re Widnes Borough and Lancaster County Council Elections, Collins' Application* (1952) 96 Sol Jo 514, 50 LGR 655, DC. In *Re Berry* (1978) Times, 11 February, DC, a candidate at a local government election who had previously been an election agent at two parliamentary elections and had previously been a candidate at a local government election was refused relief for failing to include the name and address of the printer and publisher on election leaflets, but his election agent, who was not so experienced, was granted relief.

5 *Re County Councillors' Elections, Birley's Case* (1889) 5 TLR 220, DC; *Re Preston, Fishwick Ward Councillor, Re Hubberstey* (1899) 43 Sol Jo 826, DC.

6 *Re the Local Government Act 1888, Re the Municipal Elections (Corrupt and Illegal Practices) Act 1884, ex p Walker* (1889) 22 QBD 384, CA.

7 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 53. See also *Ex p Matthews* (1886) 2 TLR 548, DC (failure to make return of election expenses: see paras 659, 666 ante); and see *Shipston-on-Stour RDC Election* (1953) Times, 9 June, DC.

8 *Ex p Polson* (1923) 39 TLR 231; *Re Pole and Scanlon* 1921 SC 98 (cases relating to failure to make a return of election expenses: see paras 659, 666 ante). On the other hand it has been stated that it is the candidate's duty to familiarise himself to some extent with election law and not to shut his eyes to it: *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 360.

9 *Cambridge Borough Case, ex p Hawkins and French* (1899) 44 Sol Jo 102, DC.

10 *Ex p Ayrton* (1885) 2 TLR 214, DC.

11 *Curran v Lord Advocate* 1999 SLT 332, OH.

695. Other reasonable cause as ground for relief in respect of illegal practice, etc. A candidate whose express instructions had been disregarded by his election agent has been excused in respect of an excessive expenditure beyond the authorised maximum[1]. Special statutory provision is made by which, in certain cases

where there are joint candidates at a local government election, excess election expenses are to be deemed to have arisen from a reasonable cause[2].

1 *Ex p Stopes, Southwark Division Case* (1889) Times, 5 March.
2 See para 279 ante.

696. Applications for relief in respect of illegal practice, etc which have been granted. Relief has been granted in respect of:

(1) paid canvassers[1];
(2) election documents not bearing the name and address of the printer and publisher[2];
(3) the hiring of committee rooms in premises which are prohibited for the purpose[3]; and
(4) certain other illegal payments[4].

Relief has also been granted in respect of election expenses incurred in excess of the authorised maximum[5], or paid otherwise than by or through the election agent[6]; in respect of failure to make returns and declarations as to election expenses[7] within the prescribed time[8]; in respect of returns of election expenses which were inaccurate or insufficient[9]; and in respect of failure to send documents required to accompany the return of election expenses[10].

1 *Re County Councillors' Elections, Birley's Case* (1889) 5 TLR 220, DC. Cf *Re County Council Elections, ex p Thomas* (1889) 5 TLR 198, DC; revsd on appeal (1889) 60 LT 728, 5 TLR 234, CA, but on grounds which would no longer apply.
2 *Re Liverpool, Toxteth Division, Election* (1950) Times, 8 March (where the omission of the publisher's name was said to be a venial offence for which relief was granted); *Re Shipston-on-Stour RDC Election* (1953) Times, 9 June; *Re Hambledon RDC Election* (1960) Times, 20 January, DC; *Re Liverpool City Council Election* (1964) Times, 16 May, DC. See also *Re Huntingdon Borough Municipal Election, ex p Clark* (1885) 52 LT 260, DC; *Re County Councillors Elections, Vickerman's Case* (1889) 5 TLR 220, DC; *Re North Camberwell Election* (1910) Times, 15 January; *Cumberland, Cockermouth Division Case* (1901) 5 O'M & H 155; *Re Farringdon Ward Election* (1912) Times, 30 January; *Re County Councillor Elections, Byrch's Case* (1889) 5 TLR 195, DC; *Re County Councillors' Elections, Earl Manvers' Case* (1889) 5 TLR 220, DC; *Re Hailsham Division of Norfolk Election of County Councillors, ex p Ives* (1888) 5 TLR 136, DC; *Ex p Jessel* (1910) Times, 21 January; *Bettesworth v Allingham* (1885) 16 QBD 44, DC. Relief can only be granted to the candidate or election agent and not to the printer or publisher: *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC; *Re County Council Elections, ex p Lenanton, ex p Pierce* (1889) 53 JP 263, DC; but cf *Re Huntingdon Borough Municipal Election, ex p Clark* supra; *Re Hailsham Division of Norfolk Election of County Councillors, ex p Ives* supra; and see *Re Terry* [2003] All ER (D) 404 (Jul) (candidate in a local election published a leaflet which did not display the name and address of the printer or publisher, claiming that the omission had been inadvertent and as a result of his photocopying machine breaking down).
3 *Re Hart* (1885) 2 TLR 24, DC; *Re Terry and Wharton* (1884) 1 TLR 183, DC; *Kesteven, Lincolnshire, Bennington Division Case, ex p Hutchinson* (1888) 5 TLR 136, DC; *Re Whitechapel Election* (1906) Times, 15 February; *Re County Council Elections, ex p Lenanton, ex p Pierce* (1889) 53 JP 263, DC; *Re County Councillors' Elections* (1889) 5 TLR 195, DC; *Ex p Kyd* (1887) 14 TLR 64, DC; *Ex p Hughes* (1900) 45 Sol Jo 79, DC. Relief was refused, however, in *Re School Board Election, ex p Montefiore* (1888) 5 TLR 78, DC; *West Bromwich Case* (1911) 6 O'M & H 256 at 286.
4 *Ex p Caine* (1922) 39 TLR 100; *Ex p Polson* (1923) 39 TLR 231.
5 *Re Wakefield Constituency Parliamentary Election, ex p Harrison* (1966) 110 Sol Jo 708, 64 LGR 383 (young voters not entitled to vote not excluded in computing maximum expenses; see now, however, para 278 ante); *Re Bodmin Constituency Parliamentary Election, ex p Bessell* (1966) Times, 7 July (young voters and non-residents not excluded); *Re Bedwellty Constituency Parliamentary Election, ex p Finch* (1965) 109 Sol Jo 514 (number of electors miscalculated); *Re Bristol South East Constituency Parliamentary Election* (1964) Times, 11 December (maximum calculated on basis that it was a county constituency whereas it was in fact a borough constituency). See also *Ex p Ayrton* (1885) 2 TLR 214, DC; *Ex p De Lafontaine* (1914) 78 JP Jo 352, DC; *Ex p Touche* (1915) Times, 28 July, DC; *Ex p Hughes* (1897) 42 Sol Jo 163, DC; and see *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 199, 223.
6 *Worcester City Case, ex p Williamson* (1906) 51 Sol Jo 14; *Worcester Borough Case, ex p Caldicote* (1907) 51 Sol Jo 593.

7 As to special statutory provisions relating to the granting of relief in the case of such returns and declarations and for the conditions which may be imposed see paras 691–692 ante.

8 *Wigan Case* (1885) 2 TLR 159, DC; *Ex p Matthews* (1886) 2 TLR 548, DC; *Ipswich Case* (1887) 3 TLR 397, DC; *Ex p Oake* (1904) Times, 10 August, DC; *Smith v Sloan and Mackenzie* 1919 SC 546; *Munro and M'Mullen v Mackintosh* 1920 SC 218; *Re Pole and Scanlon* 1921 SC 98; *Ex p Polson* (1923) 39 TLR 231 (but see para 694 ante); *Nichol v Fearby* [1923] 1 KB 480. See also *Ex p Robson* (1886) 18 QBD 336; *Ex p Pennington* (1898) 46 WR 415, DC (cases where no expenses had been incurred and the candidate had omitted to make a nil return; in *Ex p Robson* supra, a return and declaration were ordered to be made as a condition of relief).

9 *Plymouth, Drake Division Case* (1929) 7 O'M & H 101 at 110, 129; *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 117–119; *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 53; *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84, 54 LT 625.

10 *Clark v Sutherland* 1897 24 R (Ct of Sess) 821, 34 Sc LR 555.

697. Applications for relief in respect of illegal practice, etc which have been refused. Relief has been refused in respect of the payment of a voter's railway fare to enable him to go and vote[1]; in respect of a libellous placard containing an unjustifiable attack on the candidate's opponent[2]; and where the offence was conducted on a considerable scale or was likely to influence the election[3]. It is doubtful if relief would be refused merely because the applicant had committed more than one offence[4].

Relief has been refused where the applicant failed to convince the court that he and his agents had taken all reasonable steps to ensure a proper election campaign and to prevent the commission of illegal practices[5]; where there was a wholesale disregard of election law[6]; and where the evidence on the affidavits was conflicting[7].

1 *Southampton Borough Case* (1895) 5 O'M & H 17 at 25.

2 *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC; and cf *Re County Councillors' Elections, Fenwick's Case* (1889) 5 TLR 220, DC (where a letter was alleged to be scurrilous but was found not to be so by the court and relief was granted).

3 *Re Warwick County, Dunchurch Division, ex p Darlington* (1889) 53 JP 71, DC; *Re Droitwich Elective Auditors' Case, ex p Tolley, ex p Slater* (1907) 71 JP 236, DC.

4 Relief was refused in *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC (although this was not the only ground of refusal: see note 7 infra); but relief was allowed in *Stepney Borough Case, Rushmere v Isaacson* (1892) 4 O'M & H 178 at 181 and in *Ex p Polson* (1923) 39 TLR 231. See *West Ham, North Division Case* (1911) 6 O'M & H 392 at 394 per Ridley J ('An irregularity in an account—the court would probably relieve for it. Let it be two and they may relieve for them. But this is a case in which in almost every particular which has been given some error has been committed while other things have never been recognised or thought of at all').

5 *Rochester Borough Case* (1892) 4 O'M & H 156 at 160; *Southampton Borough Case* (1895) 5 O'M & H 17 at 22.

6 *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 360.

7 *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC; *Re Hambleton* (1953) 103 L Jo 703, county court (where the Director of Public Prosecutions stated that there was no reported case of relief being granted if the evidence was contradictory).

698. Time of application for relief in respect of illegal practice, etc. An application for relief in respect of an illegal practice may be made at any time[1]. It may be made before the poll[2], or after the withdrawal of an election petition[3], or when an election petition is threatened[4], or after the issue of a writ claiming penalties[5]. The application must be made promptly after the discovery of the act or omission or it may be refused on the ground of delay[6]. If an election petition has been presented, the court will usually decline to adjudicate upon an application for relief by the successful candidate whose election is questioned by the petition, and the court may either refuse the application or adjourn the hearing until the petition has been heard[7]. In some cases, however, especially where the act complained of is trivial and not likely in itself to have affected the result of the election, the court will be prepared to adjudicate even though the result is that the grant of relief puts an end to the petition[8].

1 As to such applications see para 693 et seq ante.
2 *Ex p Kyd* (1897) 14 TLR 64, DC.
3 *Lichfield Case* (1892) as cited in Day 76.
4 *Re County Councillors' Elections, Stephens' Case* (1889) 5 TLR 203, DC.
5 *Nichol v Fearby* [1923] 1 KB 480.
6 *Re Pembroke County Council Case* (1889) 5 TLR 272, DC; on appeal sub nom *Re Local Government Act 1888, ex p Birtwhistle* (1889) 5 TLR 321, CA.
7 *Ex p Wilks* (1885) 16 QBD 114, DC; *Re County Councils' Elections, Evans' Case* (1889) 5 TLR 206 at 207, DC; *Re County Councillors' Elections, Hempson's Case* (1889) 5 TLR 220, DC.
8 *Ex p Forster* (1903) 89 LT 18, DC.

699. Notice of application for relief. A court may make an order granting relief only after such notice of the application is given as the court considers fit[1]. As well as notice being given to the Director of Public Prosecutions[2], notice should be given to each of the candidates and to the returning officer and there should be public advertisement in newspapers circulating in the area for which the election is held[3]. It is not necessary to give notice by posters[4] but the notice must be given a sufficient time before the application is intended to be made[5]. The notice must give sufficient information as to the relief sought[6]. Less notice is required when relief is asked during the trial of an election petition[7].

1 As to relief with reference to returns and declarations as to election expenses see paras 691–692 ante; and as to relief in respect of illegal practice, payment, employment or hiring see para 693 ante.
2 See para 693 ante.
3 *Salop, Southern or Ludlow Division Case* (1886) 54 LT 129, DC; *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC; *Re County Council Elections, ex p Lenanton, ex p Pierce* (1889) 53 JP 263, DC.
4 *Ex p Kyd* (1897) 14 TLR 154, DC; but see *Ex p Perry* (1884) 48 JP 824, DC.
5 *Re County Councillors' Elections* (1889) 5 TLR 195, DC.
6 *Ex p Graveson (Re Elections of County Councillors)* (1889) Times, 31 January. Where the notice of application given in an advertisement differed from the application itself, it was held that the difference did not matter and relief was allowed: *Re Wakefield Constituency Parliamentary Election, ex p Harrison* (1966) 110 Sol Jo 708, 64 LGR 383.
7 *Plymouth, Drake Division Case* (1929) 7 O'M & H 101 at 110; *Norwich Case, Birbeck v Bullard* (1886) 54 LT 625, 4 O'M & H 84; and see *Hexham Case* (1892) as cited in Day 76; *Dorsetshire, Eastern Division Case* (1911) 6 O'M & H 22 at 23, 28.

700. Supporting affidavits in respect of application for relief for illegal practice, etc. Unless an application for relief[1] is made to an election court, it must be supported by affidavit[2]. If there is more than one applicant, there should be a joint affidavit by all the applicants[3]. The evidence must bring the case clearly within the statutory provisions[4]. The court will not act on an unsworn medical certificate that a candidate is too ill to swear an affidavit[5]. A corroborative affidavit in support of the applicant should also be obtained[6].

1 As to such applications see para 693 et seq ante.
2 *Re County Councillors' Elections, Macdona's Case* (1889) 5 TLR 220, DC. Where an affidavit contained errors, a corrected affidavit was required: *Re Wakefield Constituency Parliamentary Election, ex p Harrison* (1966) 110 Sol Jo 708, 64 LGR 383.
3 *Re Andrews, Re Streatham Vestry Election* (1899) 68 LJQB 683, DC.
4 *Re Huntingdon Borough Municipal Elections, ex p Clark* (1885) 52 LT 260, 1 TLR 243, DC.
5 *Re County Councillors' Elections, Lord Dinevor's Case* (1889) 5 TLR 220 at 221, DC (where the application was adjourned).
6 *Ex p Haseldine* (1895) 59 JP 71, DC.

701. Parties and costs in respect of application for relief for illegal practice, etc. On an application for relief[1], a candidate[2], the returning officer[3], an elector[4] or a committee of electors[5] may appear to consent or oppose. If the opposition is founded on

facts not appearing on evidence filed in support of the application, the parties opposing should be prepared with affidavits of such facts[6].

The applicant will in general have to bear the cost of his application[7]. The applicant may also be ordered to pay the costs of the opposition[8]. A returning officer will not be awarded his costs if he appears unnecessarily[9].

1 As to such applications see para 693 et seq ante.
2 *Ex p Wilks* (1885) 16 QBD 114, DC.
3 *Essex, South Western Division Case* (1886) 2 TLR 388, DC; *Wigan Case* (1885) 2 TLR 159, DC.
4 *Wigan Case* (1885) 2 TLR 159, DC; *Kesteven, Lincolnshire, Bennington Division Case, ex p Hutchinson* (1888) 5 TLR 136, DC.
5 *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC.
6 *Ex p Wilks* (1885) 16 QBD 114, DC.
7 *Stepney Borough Case, Rushmere v Isaacson* (1892) 4 O'M & H 178 at 183. If the respondent to an election petition charging illegal practices delays notice of his application for relief until the charges have been established before the court, he may have to bear the costs of the trial of the charges even though he obtains relief: *Stepney Borough Case, Rushmere v Isaacson* supra at 183–184. For a case where an applicant was granted relief by the Court of Appeal on the terms of paying the costs of the application to the Divisional Court and the appeal see *Ex p Walker* (1889) 22 QBD 384, CA.
As to costs see further para 868 et seq post.
8 Costs were ordered where the application was unduly wide (*Re County Councillors' Elections, ex p Keatinge and Wynn's Case* (1889) 5 TLR 195, DC), or where the opposition was in the public interest (*Ex p Kyd* (1897) 14 TLR 154, DC; *Re Ramsgate Town Council, ex p Hobbs* (1889) 5 TLR 272, DC). See also *Re County Councillors' Elections, Fenwick's Case* (1889) 5 TLR 220, DC; *Re County Councillors' Elections, Gregory and Frost's Case* (1889) 5 TLR 220 at 221, DC; *Kesteven, Lincolnshire, Bennington Division Case, ex p Hutchinson* (1889) 5 TLR 136, DC (where costs were allowed); *Re Local Government Act 1888, ex p Birtwhistle* (1889) 5 TLR 321, CA (where costs were not allowed). Where at the time an application first came before the court it was opposed on the ground that proper notice had not been given but such notice was afterwards given, the court at a subsequent hearing allowed the application and granted costs to the party who had opposed the application at the earlier hearing and had subsequently withdrawn, but it made no other order for costs: *Re Warwick County, Dunchurch Division, ex p Darlington* (1889) 53 JP 71, DC. See also *Ex p Oake* (1904) Times, 10 August, DC (application for relief in proceedings for penalty); cf para 758 post.
9 *Ex p Stephens* (1889) Times, 2 February.

(iii) Offences which are also Illegal Practices

702. Offences which also constitute illegal practices. The following offences are also deemed to be illegal practices: (1) certain voting offences[1]; (2) broadcasting from outside the United Kingdom with intent to influence a parliamentary, Welsh Assembly or European Parliamentary election[2]; (3) publishing imitation poll cards at certain elections[3]; (4) failure of a candidate or election agent to display relevant details on election publications[4].

1 See para 703 post.
2 See para 704 post.
3 See para 705 post.
4 See para 706 post.

703. Voting offences which are illegal practices. A person is guilty of an offence constituting an illegal practice[1]:

(1) if he votes[2] in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as elector, at a parliamentary[3] or local government election[4], or at parliamentary or local government elections, or at a Welsh Assembly election or at Welsh Assembly elections, or at a European parliamentary election[5], knowing that he is subject to a legal incapacity[6] to vote at the election or, as the case may be, at elections of that kind[7];

(2) if he applies for the appointment of a proxy to vote for him at any parliamentary

or local government election, or at parliamentary or local government elections, or at a Welsh Assembly election or at Welsh Assembly elections, or at a European parliamentary election, knowing that he or the person to be appointed is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind[8];

(3) if he votes, whether in person or by post, as proxy for some other person at a parliamentary or local government election or at a Welsh Assembly election or at a European parliamentary election, knowing that that person is subject to a legal incapacity to vote[9];

(4) if he votes as elector otherwise than by proxy: (a) more than once in the same constituency at any parliamentary election or more than once in the same electoral area[10] at any local government election or more than once in the same Assembly constituency at any Welsh Assembly election or more than once in the same electoral region[11] at any European Parliamentary election[12]; (b) in more than one constituency at a general election or in more than one electoral area at an ordinary election of councillors for a local government area[13] which is not a single electoral area or in more than one Assembly constituency at an ordinary Welsh Assembly election or in more than one electoral region at a European parliamentary election[14]; or (c) in any constituency at a general election or in any electoral area at an ordinary election of councillors for a local government area which is not a single electoral area or in any Assembly constituency at a Welsh Assembly election or in any electoral region at a European parliamentary election, when there is in force an appointment of a person to vote as his proxy at the election in some other such constituency or electoral area[15];

(5) if he votes as elector in person either: (a) at a parliamentary or local government election or Welsh Assembly election or European parliamentary election at which he is entitled to vote by post[16]; or (b) at a parliamentary or local government election or Welsh Assembly election or European parliamentary election, knowing that a person appointed to vote as his proxy at the election either has already voted in person or is entitled to vote by post at that election[17];

(6) if he applies for a person to be appointed as his proxy to vote for him at parliamentary elections in any constituency or at Assembly elections in any Assembly constituency or at European parliamentary elections in any electoral region without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another constituency or that or another electoral region or without withdrawing a pending application for such an appointment in respect of that or another constituency or that or another electoral region[18];

(7) if he votes as proxy for the same elector either: (a) more than once in the same constituency at any parliamentary election or more than once in the same electoral area at any local government election or more than once in the same Assembly constituency at any Welsh Assembly election or more than once in the same electoral region at any European parliamentary election[19]; or (b) in more than one constituency at a parliamentary general election or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area or in more than one Assembly constituency at an ordinary Welsh Assembly election or in more than one electoral region at a European parliamentary election[20];

(8) if he votes in person as proxy for an elector at a parliamentary or local government or Welsh Assembly or European parliamentary election at which he is entitled to vote by post as proxy for that elector[21];

(9) if he votes in person as proxy for an elector at a parliamentary or local government or Welsh Assembly or European parliamentary election knowing that the elector has already voted in person at the election[22];

(10) if he votes[23] at a parliamentary election in any constituency or at a local government election in any electoral area or at a Welsh Assembly election[24] or at a European parliamentary election in any electoral region as proxy for more than two persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild[25];

(11) if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, one of the foregoing offences[26].

The court before which a person is convicted of one of these offences may, however, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity for voting[27]. A candidate at a parliamentary, local government or Welsh Assembly election is not liable, nor is his election avoided, for any such illegal practice of any agent of his other than an offence of knowingly inducing or procuring some other person to do an act which is, or but for that other person's want of knowledge would be, such an illegal practice[28].

If any person votes, or induces or procures any person to vote, at an election under the local government Act[29] which is not a local government election[30], knowing that he or that person is prohibited by any enactment from voting at that election, he is guilty of an illegal practice[31]. A candidate is not, however, liable nor is his election avoided for any such illegal practice committed without his knowledge or consent[32].

The provisions which establish these voting offences as illegal practices have been applied and modified in relation to extending the rights of citizens and nationals of accession states to register and be registered as local government electors and European parliamentary electors[33], for the purposes of local authority referendums in England[34] and in Wales[35] and for the purposes of local authority mayoral elections[36].

1 Representation of the People Act 1983 s 61(1), (7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(2), (8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1), (8). As to the punishment of illegal practices see para 886 post.

2 For these purposes, a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, is deemed to have voted: Representation of the People Act 1983 s 61(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(7). In relation to an ordinary Welsh Assembly election, where a person is entitled to give two votes in an Assembly constituency (whether in person as elector or by proxy, or by post as elector or by proxy) he votes once in relation to each Assembly election for which his votes are given: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(9). For the meanings of 'Assembly constituency' and 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to ordinary general elections for the National Assembly for Wales see para 220 et seq ante.

3 For the meaning of 'parliamentary election' see para 9 ante.

4 For the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante.

5 As to European parliamentary elections see para 224 et seq ante.

6 For these purposes, references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election for which they are done, include his being below voting age if he will be of voting age on that day: Representation of the People Act 1983 s 61(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1). For this purpose, references to legal incapacity to vote at a European parliamentary election include incapacity to vote at the kind of election from which the entitlement to vote at a European parliamentary election derives: reg 24(2).

7 Representation of the People Act 1983 s 61(1)(a) (s 61(1)–(4) amended by the Representation of the People Act 1985 s 11, Sch 2 para 2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1)(a).

8 Representation of the People Act 1983 s 61(1)(b) (as amended: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1)(b).

9 Representation of the People Act 1983 s 61(1)(c) (as amended: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(1)(c).

10 For the meaning of 'electoral area' see para 10 ante.

11 As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante.

12 Representation of the People Act 1983 s 61(2)(a)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(a)(i). In the case of Authority elections, head (4) in the text does not have effect; but a person is guilty of an offence if he votes as an elector otherwise than by proxy: (1) more than once at the same election of the Mayor of London (Representation of the People Act 1983 s 61(2A)(a) (s 61(2A) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 10(1), (2))); (2) more than once at the same election of the London members of the London Assembly at an ordinary election (Representation of the People Act 1983 s 61(2A)(b) (as so added)); (3) more than once in the same Assembly constituency at the same election of a constituency member of the London Assembly (s 61(2A)(c) (as so added)); (4) in more than one Assembly constituency at the same ordinary election (s 61(2A)(d) (as so added)); or (5) in any Assembly constituency at an ordinary election, or an election of the Mayor of London held under the Greater London Authority Act 1999 s 16 (filling a vacancy in the office of London Mayor: see para 211 ante), when there is in force an appointment of a person to vote as his proxy at the election in some other Assembly constituency (Representation of the People Act 1983 s 61(2A)(e) (as so added)). For the meaning of 'Authority election' see para 10 ante. A person is guilty of an offence if, on any occasion when elections to the European Parliament are held in all the member states under the 1976 Act concerning the election of the representatives of the European Parliament by direct universal suffrage (OJ L278, 08.10.76, p 5) (the '1976 Act') art 10 (amended and renumbered by EC and Euratom Decision 2002/772 (OJ L283, 21.10.2002, p 1)), annexed to ECSC, EEC and Euratom Decision 76/787 (OJ L278, 08.10.76, p 1) (as to which see para 6 ante), he votes as an elector more than once in those elections, whether in the United Kingdom or elsewhere: European Parliamentary Elections Act 2002 s 9(1) (amended by the European Parliamentary Elections (Common Electoral Principles) Regulations 2004, SI 2004/1374, reg 2(1), (2)). This provision is expressed to be without prejudice to any enactment relating to voting offences, as applied by regulations under the European Parliamentary Elections Act 2002, to elections of members of the European Parliament ('MEPs') held in the United Kingdom and Gibraltar: s 9(2) (amended by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 3(1), (4)). Provisions of the Representation of the People Act 1983, as applied by regulations under the European Parliamentary Elections Act 2002, have effect in relation to an offence under s 9 (as amended) as they have effect in relation to an offence under the Representation of the People Act 1983 s 61(2); in particular, s 61(7) (see the text and notes 27–28 infra) and s 178 (as substituted) (prosecution of offences committed outside the United Kingdom: see para 883 post) apply: European Parliamentary Elections Act 2002 s 9(3), (4).

13 For the meaning of 'local government area' see para 18 note 2 ante.

14 Representation of the People Act 1983 s 61(2)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(a)(ii). In the case of Authority elections see note 12 supra.

15 Representation of the People Act 1983 s 61(2)(a)(iii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(a)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(a)(iii). In relation to European parliamentary elections, the reference in the text is to an appointment of a person to vote as his proxy at the election in respect of an address other than the address by virtue of which he votes as elector: reg 24(3)(a)(iii). In the case of Authority elections see note 12 supra.

16 Representation of the People Act 1983 s 61(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(b).

In relation to a parliamentary or local government election, a person is not guilty of an offence under the Representation of the People Act 1983 s 61(2)(b) only by reason of his having marked a tendered ballot paper in pursuance of s 23(1), Sch 1 r 40(1ZC), (1ZE) (as added) (see para 408 ante): s 61(6A) (added by the Electoral Administration Act 2006 s 38(3)). Any amendment effected by the Electoral

Administration Act 2006 s 38 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

17 Representation of the People Act 1983 s 61(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(c).

18 Representation of the People Act 1983 s 61(2)(d) (as amended: see note 7 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(3)(d).

19 Representation of the People Act 1983 s 61(3)(a)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(5)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(4)(a)(i). In the case of Authority elections, head (7) in the text does not have effect; but a person is guilty of an offence if he votes as proxy for the same elector: (1) more than once at the same election of the Mayor of London (Representation of the People Act 1983 s 61(3A)(a) (s 61(3A) added by the Greater London Authority Act 1999 Sch 3 paras 1, 10(1), (3))); (2) more than once at the same election of the London members of the London Assembly at an ordinary election (Representation of the People Act 1983 s 61(3A)(b) (as so added)); (3) more than once in the same Assembly constituency at the same election of a constituency member of the London Assembly (s 61(3A)(c) (as so added)); or (4) in more than one Assembly constituency at the same ordinary election (s 61(3A)(d) (as so added)).

20 Representation of the People Act 1983 s 61(3)(a)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(5)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(4)(a)(ii). In the case of Authority elections see note 19 supra.

21 Representation of the People Act 1983 s 61(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(5)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(4)(b).

In relation to a parliamentary or local government election, a person is not guilty of an offence under the Representation of the People Act 1983 s 61(3)(b) only by reason of his having marked a tendered ballot paper in pursuance of Sch 1 r 40(1ZC), (1ZE) (as added) (see para 408 ante): s 61(6A) (as added: see note 16 supra). As to the commencement of this provision see note 16 supra.

22 Ibid s 61(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(5)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(4)(c).

23 For the purposes of this offence, a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper must, if he does not exercise that right, be disregarded: Representation of the People Act 1983 s 61(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(7). As to the marking of tendered ballot papers see para 408 ante.

24 Ie, in the case of an ordinary Welsh Assembly election, at constituency elections in Assembly constituencies in an Assembly electoral region (or in one such election) or, in the case of a constituency election other than at an ordinary election, at a constituency election, or at a regional election (whether or not at an ordinary election): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(6). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.

25 Representation of the People Act 1983 s 61(4) (as amended (see note 7 supra); and further amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 83); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(6) (amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(5) (amended by SI 2005/2114).

26 Representation of the People Act 1983 s 61(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(6).

27 Representation of the People Act 1983 s 61(7)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(8)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 24(8). As to the incapacities imposed as mentioned in the text see paras 904–906 post; and as to mitigation and remission of incapacities so imposed see para 907 post.

28 Representation of the People Act 1983 s 61(7)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 29(8)(b). The text refers to an offence under head (11) in the text.

29 For the meaning of 'election under the local government Act' see para 10 note 2 ante.

30 An election under the local government Act which is not a local government election will include eg the election of the chairman of a county or district council. For this purpose it also includes a poll consequent on a parish or community meeting: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). See also para 11 ante.

31 Representation of the People Act 1983 s 189(1).

32 Ibid s 189(2).

33 See the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (5).
34 In relation to the application of the Representation of the People Act 1983 s 61(2)–(4) (as amended) (see the text and notes 10–25 supra), with modifications, see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 (amended by SI 2005/2114).
35 In relation to the application of the Representation of the People Act 1983 s 61(2)–(4) (as amended) (see the text and notes 10–25 supra), with modifications, see the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2 (amended by SI 2005/3302).
36 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

704. Contravention of prohibition on broadcasting from outside United Kingdom with intent to influence certain elections. An offence under the provisions which prohibit broadcasting from outside the United Kingdom with intent to influence elections[1] is an illegal practice[2]. The court before which a person is convicted of such an offence may, however, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity which may be imposed by virtue of it being an illegal practice[3].

Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under these provisions, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is deemed to be guilty of the illegal practice unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances[4].

The provisions which establish this offence as an illegal practice have been applied and modified for the purposes of local authority referendums in England and in Wales[5].

1 Ie, in relation to a parliamentary election, under the Representation of the People Act 1983 s 92(1) (as substituted) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(1) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(1) (see para 336 ante). As to elections in the City of London see para 30 ante. For the meaning of 'United Kingdom' see para 13 note 1 ante.
2 Representation of the People Act 1983 s 92(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2). As to the punishment of illegal practices see para 886 post.
3 Representation of the People Act 1983 s 92(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2). As to the incapacities which may be imposed see para 899 et seq post. As to the court's general power to mitigate or remit incapacities see para 907 post.
4 Representation of the People Act 1983 s 92(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(3).
5 See the Representation of the People Act 1983 s 92(2), (3) (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2); and see para 583 ante.

705. Contravention of prohibition on issuing imitation poll cards at certain elections. No person, for the purpose of promoting or procuring the election of any candidate[1] at a parliamentary[2] or European parliamentary[3] or Welsh Assembly election[4] or at certain local government elections[5], may issue any poll card or document so closely resembling an official poll card as to be calculated to deceive[6]; and an offence under this provision is an illegal practice[7]. The court before which a person is convicted of such an

offence may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of its being an illegal practice[8].

Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under these provisions, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is deemed to be guilty of an illegal practice, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances[9].

The provisions which establish this offence as an illegal practice[10] have been applied and modified for the purposes of local authority referendums in England and in Wales[11] and for the purposes of local authority mayoral elections[12].

1 For the meaning of 'candidate' for this purpose see para 237 ante.
2 For the meaning of 'parliamentary election' see para 9 ante.
3 As to European parliamentary elections see para 224 et seq ante.
4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
5 This provision applies to any local government election in relation to which rules made under the Representation of the People Act 1983 s 36 (as amended) (see para 388 ante) require an official poll card to be sent to electors in a form prescribed by the rules: s 94(2) (added by the Representation of the People Act 1985 s 24, Sch 4 para 36(2)). As to the issue of official poll cards for these purposes see para 394 ante. For the meaning of 'local government election' generally see para 10 ante. As to elections in the City of London see para 30 ante.
6 Representation of the People Act 1983 s 94(1) (renumbered and amended by the Representation of the People Act 1985 Sch 4 para 36); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 67; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 66.
7 Representation of the People Act 1983 s 92(2) (applied by s 94(1) (as renumbered and amended: see note 6 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2) (applied by art 67); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2) (applied by reg 66). As to the consequences of illegal practices see para 886 et seq post.
8 Representation of the People Act 1983 s 92(2) (applied by s 94(1) (as renumbered and amended: see note 6 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(2) (applied by art 67); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(2) (applied by reg 66). As to those incapacities see para 899 et seq post. As to the courts' power to mitigate or remit incapacities see para 907 post.
9 Representation of the People Act 1983 s 92(3) (applied by s 94(1) (as renumbered and amended: see note 6 supra)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 65(3) (applied by art 67); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 64(3) (applied by reg 66).
10 Ie under the Representation of the People Act 1983 ss 92, 94 (as amended) (see the text and notes 1–9 supra).
11 See, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). As to the issue of official poll cards at a local authority referendum see para 614 ante.
12 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

706. Failure of candidate or election agent to comply with requirements in relation to election publications. In relation to a parliamentary or local government election[1], where any material which can reasonably be regarded as intended to promote or procure[2] the election of a candidate[3] (whether or not it can be so regarded as intended to achieve any other purpose as well) is published in contravention of the requirements which apply to such material[4], a candidate or his election agent[5] who would otherwise be guilty of an offence[6] is guilty of an illegal practice[7].

Where a candidate or his election agent at a Welsh Assembly constituency or regional election[8] or at a European parliamentary election[9] contravenes the provisions which require relevant details to be included in published election material[10], he is guilty of an illegal practice[11].

1 Ie a parliamentary election, an Authority election or an election under the local government Act: see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante. For the meaning of 'parliamentary election' see para 9 ante. For the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante.
2 As to the meaning of the words 'promoting or procuring' see para 277 note 2 ante.
3 For the meaning of 'candidate' generally see para 237 ante.
4 Ie in contravention of the restrictions contained in the Representation of the People Act 1983 s 110(2) (as substituted) (see para 751 post).
5 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante.
6 Ie who, apart from the Representation of the People Act 1983 s 110(12) (as substituted), would be guilty of an offence under s 110(9) (as substituted) as the promoter of the material, the person by whom the material is published or the printer of the material or under s 110(10) (as substituted) as the promoter of the material or the person by whom the material is published (see para 751 post).
7 Ibid s 110(12) (substituted by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 14). As to the effect of this provision see para 751 note 4 post. As to the consequences of illegal practices see para 886 et seq post.
8 For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. At a Welsh Assembly election, the reference in the text is to a candidate or his election agent is to any individual candidate or his election agent or to any or all of a group of party list candidates or their election agent: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3). For the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see para 237 note 23 ante. As to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante.
9 As to European parliamentary elections see para 224 et seq ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.
10 Ie, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74, contravention of which is an offence (see para 751 post).
11 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(3).

(iv) Corrupt Practices

A. IN GENERAL

707. Practices which are corrupt. The following are corrupt practices[1]: (1) making false statements in support of the nomination of candidates at elections[2]; (2) issuing false certificates authorising a description to be used by a candidate at an election[3]; (3) incurring certain expenses without the authorisation of the election agent[4]; (4) making a false declaration as to such expenses[5]; (5) making a false declaration as to election expenses[6]; (6) bribery[7]; (7) treating[8]; (8) undue influence[9].

Some offences may also constitute corrupt practices[10].

1 As to the consequences of corrupt practices see para 885 et seq post.
2 See para 708 post.
3 See para 709 post.
4 See para 710 post.
5 See para 710 post.
6 See para 711 post.
7 See para 712 et seq post.
8 See paras 724–725 post.

9 See paras 726–731 post.
10 See para 732 et seq post.

708. Making false statements in connection with the nomination of candidates at elections. A person is guilty of a corrupt practice[1] if, at any parliamentary[2] or local government election[3] or at any Welsh Assembly[4] or European parliamentary election[5], he causes or permits to be included in a document delivered or otherwise furnished to a returning officer[6] for use in connection with the election[7]: (1) a statement of the name or home address of a candidate[8] at the election which he knows to be false in any particular[9]; or (2) (except in the case of a European parliamentary election) anything which purports to be the signature of an elector[10] who proposes, seconds or assents to, the nomination of such a candidate[11] but which he knows was not written by the elector by whom it purports to have been written[12] or, if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding, or (as the case may be) assenting to, that candidate's nomination[13]. In relation to a parliamentary election, a person is also guilty of a corrupt practice if he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with the election a certificate authorising[14] the use by a candidate of a description if he knows that the candidate is standing in another constituency[15] in which the poll is to be held on the same day as the poll at the election to which the certificate relates[16].

A person is guilty of a corrupt practice if, at any parliamentary or local government election, he makes in any document in which he gives his consent to his nomination as a candidate[17]: (a) a statement of his date of birth[18]; or (b) a statement as to his qualification for being elected at that election[19], which he knows to be false in any particular[20]. In relation to a parliamentary election only, a person is also guilty of a corrupt practice if he makes in any document in which he gives his consent to his nomination as a candidate a statement that he is not a candidate at an election for any other constituency the poll for which is to be held on the same day as the poll at the election to which the consent relates[21], which he knows to be false in any particular[22].

1 As to the consequences of corrupt practices see para 885 et seq post.
2 For the meaning of 'parliamentary election' see para 9 ante.
3 Ie except for the purposes of the Representation of the People Act 1983 s 65A(1)(c) (as added) (see the text and notes 14–16 infra) and s 65(1A)(c) (as added) (see the text and notes 21–22 infra): s 65A(2)(b) (s 65A added by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 5; and the Representation of the People Act 1983 s 65A(2)(b) amended by the Electoral Administration Act 2006 s 23(1), (4)). Any amendment effected by the Electoral Administration Act 2006 s 23(1), (2), (4) has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. For the meaning of 'local government election' generally see para 10 ante. As to elections in the City of London see para 30 ante.
4 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
5 As to European parliamentary elections see para 224 et seq ante.
6 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections (including elections for the return of a local authority mayor) see para 359 et seq ante; and as to returning officers for European parliamentary elections see para 365 et seq ante. For the purposes of elections for the return of members of the National Assembly for Wales, the appropriate returning officer is, in relation to a constituency election, a constituency returning officer (for the meaning of which see para 18 note 2 ante) and, in relation to a regional election, a regional returning officer (for the meaning of which see para 18 note 2 ante). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.
7 Representation of the People Act 1983 s 65A(1), (2) (s 65A as added, and s 65A(2) as amended: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 32; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 27.
8 For the meaning of 'candidate' for these purposes see para 237 ante.

9 Representation of the People Act 1983 s 65A(1)(a) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 32(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 27.

In *R v Duffy* (1994) 15 Cr App Rep (S) 677, CA (which pre-dated the offence set out in the text) a failure to perfect the consent to nomination form was held to be essentially a technical offence and, even where that failure formed part of a reprehensible plan, the Court of Appeal declined to use it as a peg on which to criminalise the behaviour; the facts of the case disclosed that a candidate had arranged for a fellow candidate's nomination in order to split his opponent's vote but that the latter's consent to nomination form had contained defects which were not necessary to the mischievous purpose (the candidate's signature had not been witnessed properly and the address given had related to the accused rather than to the candidate); and it was held that the conduct, however reprehensible, was permissible under the law as it stood and that the judge at first instance had erred in giving a custodial sentence on the basis that the irregularity amounted to a fraud on the electorate when a substantial financial penalty would have been more appropriate.

10 For the meaning of 'elector' for these purposes see para 110 note 2 ante.

11 As to the nomination of candidates at parliamentary and local government elections see para 231 et seq ante.

12 Representation of the People Act 1983 s 65A(1)(b)(i) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 32(b)(i).

13 Representation of the People Act 1983 s 65A(1)(b)(ii) (as added: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 32(b)(ii).

14 Ie for the purposes of the Representation of the People Act 1983 s 23(1), Sch 1 r 6A (as added and amended) (see paras 263 ante, 709 post).

15 For the meaning of 'constituency' in relation to a parliamentary election see para 9 ante.

16 Representation of the People Act 1983 s 65A(1)(c) (s 65A as added (see note 3 supra); s 65A(1)(c) added by the Electoral Administration Act 2006 s 23(1), (2)). As to the commencement and effect of this provision see note 3 supra.

17 Representation of the People Act 1983 s 65A(1A) (s 65A as added (see note 3 supra); and s 65A(1A), (1B) added by the Electoral Administration Act 2006 s 23(1), (3)); Representation of the People Act 1983 s 65A(2) (as added and amended: see note 3 supra).

18 Ibid s 65A(1A)(a) (as added: see note 17 supra).

19 Ibid s 65A(1A)(b) (as added: see note 17 supra). For these purposes, a statement as to a candidate's qualification is a statement that he is qualified for being elected, that he will be qualified for being elected, or that to the best of his knowledge and belief he is not disqualified for being elected: s 65A(1B) (as so added).

20 Ibid s 65A(1A) (as added: see note 17 supra).

21 Ibid s 65A(1A)(c) (as added: see note 17 supra).

22 Ibid s 65A(1A) (as added: see note 17 supra).

709. Issuing false certificate authorising a description to be used by candidate at an election. A person[1] is guilty of a corrupt practice[2] if he fraudulently purports to be authorised to issue a certificate or statement (as the case may be)[3], which authorises a description to be used by a candidate[4] at an election, on behalf of a registered political party's nominating officer[5].

1 As to the meaning of 'person' see para 110 note 1 ante.

2 As to the consequences of corrupt practices see para 885 et seq post.

3 See para 263 ante. In the case of an election of London members of the London Assembly, the reference may be either to a certificate authorising a description of a candidate that is likely to lead voters to associate the candidate with a registered party (i e a certificate issued under the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(2), Sch 2 r 6(4) (as substituted) (see para 263 ante)) or to a statement included with each party list confirming that it is issued by the nominating officer of the party or by a person authorised in writing by him (i e a statement required by Sch 2 r 7(5) (see para 263 ante)): see Sch 2 r 6(5) (substituted by SI 2001/3789); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 r 7(6). In the case of a European parliamentary election, the reference may be either to a certificate authorising a description of an individual candidate that is likely to lead voters to associate the candidate with a registered party (i e a certificate issued under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 5(1) (see para 263 ante)) or to a statement included with each party nomination paper that the party is nominated by or on behalf of the nominating officer of the registered party in question (i e a statement required by Sch 1 para 6(5) (see para 263 ante)): see Sch 1 rr 5(2), 6(7). As to individual candidates and the submission of lists of candidates to be London members of the London Assembly see para 233 ante; and as to references to

party lists in elections for the return of London members of the London Assembly see para 262 note 24 ante. As to the submission of lists of candidates to be members of the European Parliament ('MEPs') see para 235 ante. For the meaning of 'registered political party' in this context see para 233 note 16 ante. For the meaning of 'list' in the context of a European parliamentary election see para 237 note 30 ante; and for the meaning of 'individual candidate' see para 237 note 32 ante. As to a registered political party's nominating officer see para 260 ante.

4 For the meaning of 'candidate' generally see para 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate at a constituency election (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 5(4)) or to any or all of a group of party list candidates at a regional election (see Sch 5 para 8(4)). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see para 237 note 23 ante. As to an election of London members of the London Assembly or a European parliamentary election see note 3 supra.

5 Representation of the People Act 1983 s 23(1), Sch 1 r 6A(2) (Sch 1 r 6A added by the Registration of Political Parties Act 1998 s 13, Sch 2 para 2; and the Representation of the People Act 1983 Sch 1 r 6A(2) amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 129(1), (3)); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1), (3), Sch 1 r 6(5), Sch 2 rr 6(5), 7(6), Sch 3 r 6(6) (Sch 1 r 6(5), Sch 2 r 6(5), Sch 3 r 6(6) all substituted by SI 2001/3789); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 6(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 paras 5(4), 8(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 rr 5(2), 6(7); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 5(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 5(5).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 104, 129 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

710. Incurring election expenses without due authorisation or making false declaration as to such expenses. If a person[1] incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of the statutory provision which prohibits the incurring of expenses other than by the candidate[2], his election agent[3] and persons authorised in writing by the election agent[4], or if he knowingly makes the required declaration as to such expenses[5] falsely, he is guilty of a corrupt practice[6]. The court before which a person is convicted may, however, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of the conviction[7].

A candidate at a parliamentary[8] or local government or Welsh Assembly election[9] is not liable, nor is his election avoided, for such an corrupt practice committed by an agent without his consent or connivance[10].

Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt practice by this provision, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or who was purporting to act in any such capacity, is to be deemed to be guilty of that offence, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances[11].

The provisions which establish this corrupt practice[12] have been applied with modifications for the purposes of local authority mayoral elections[13].

1 As to the meaning of 'person' see para 110 note 1 ante.

2 For the meaning of 'candidate' for these purposes see para 284 note 2 ante.

3 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual

candidate at a European parliamentary election see para 246 ante. In relation to a European parliamentary election, references to an election agent include a sub-agent: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(7). As to the appointment of a sub-agent at a European parliamentary election see para 248 et seq ante.

4 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 75(1) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(1) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(1); and see para 277 ante.

5 See, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 75(2) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(3) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(3); and see para 284 ante.

6 Representation of the People Act 1983 s 75(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5). As to the consequences of corrupt practices see para 885 et seq post.

The Representation of the People Act 1983 s 75 (as amended) does not apply at an election under the local government Act which is not a local government election (see the Representation of the People Act 1983 s 90(2) (as amended); and para 681 ante); and, in relation to an election of parish councillors in England or of community councillors in Wales, the provisions of s 90(1), Sch 4 (both as amended) apply instead: see s 90(1)(b) (as amended); and para 678 ante. For the meaning of 'election under the local government Act' see para 10 note 2 ante. For the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante.

7 Ibid s 75(5)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(5). As to the incapacities imposed as mentioned in the text see paras 904–906 post; and as to mitigation and remission of incapacities so imposed see para 907 post.

8 For the meaning of 'parliamentary election' see para 9 ante.

9 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

10 Representation of the People Act 1983s 75(5)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(6)(ii). As to the avoidance of elections see paras 892–894 post.

11 Representation of the People Act 1983 s 75(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 46(6).

12 Ie under the Representation of the People Act 1983 s 75 (as amended) (see the text and notes 1–11 supra).

13 See the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(2), Sch 2 Table 1.

711. False declarations as to election expenses. If a candidate[1] or election agent[2] at a parliamentary[3] or local government election[4], or at a Welsh Assembly or European parliamentary election, knowingly[5] makes the required declaration as to election expenses[6] falsely, he is guilty of a corrupt practice[7]. Before any defendant may be so convicted, the tribunal of fact must be satisfied: (1) that the defendant made a declaration as to election expenses as required[8]; (2) that such declaration was false, in that expenses which should have been included were omitted or expenses which were included were understated, or both[9]; and (3) that the defendant knew such declaration to be false, either because the defendant knew that expenses which should have been included were omitted or because the defendant knew that expenses which were included were understated, or both[10].

1 For the meaning of 'candidate' generally see para 237 ante. In the case of a Welsh Assembly election, the reference is to a candidate at a constituency election or to an individual candidate at a regional election (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51(2); and para 286 ante) or to each candidate on a regional list submitted by a registered party at a regional election (see art 52(1); and para 286 ante). For the meanings of 'Assembly election', 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see para 237 note 23 ante. In the case of a European parliamentary election, the

reference is to an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 51(1). For the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante. As to European parliamentary elections see para 224 et seq ante.

2 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.

3 For the meaning of 'parliamentary election' see para 9 ante.

4 For the meaning of 'local government election' see para 10 ante.

5 The word 'knowingly' is levelled at an offence based on moral turpitude, and guilt must be proved: see *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 347.

6 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 82 (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 51 (candidates at a constituency election and individual candidates at a regional election) or art 52 (party list candidates) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52 (see para 286 ante) or, in relation to an election of parish councillors in England or of community councillors in Wales (where election agents are not required), under the Representation of the People Act 1983 s 90(1)(b), Sch 4 para 3 (as amended) (see para 300 ante). As to the election of parish and community councillors see para 207 et seq ante. For the meanings of 'England' and 'Wales' see para 13 note 1 ante. For the meaning of 'declaration as to election expenses' see para 287 note 2 ante.

7 Ibid s 82(6), Sch 4 para 5; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 51(5), 52(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 52(6). At a European parliamentary election, it is also a corrupt practice for a candidate to make falsely the statement required by reg 53(1) (personal expenses incurred by candidate on party list: see para 285 note 29 ante): reg 53(2). As to the consequences of a corrupt practice see para 885 et seq post.

A candidate or election agent who knowingly makes a false declaration as to election expenses is also guilty of an offence under the Perjury Act 1911: see s 5(b) (false statutory declarations: see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) para 717) and s 16(1) (dual liability: see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) para 725).

8 *R v Jones, R v Whicher* [1999] 2 Cr App Rep 253 at 258, CA, per Lord Bingham CJ.

9 *R v Jones, R v Whicher* [1999] 2 Cr App Rep 253 at 258, CA, per Lord Bingham CJ.

10 *R v Jones, R v Whicher* [1999] 2 Cr App Rep 253 at 258, CA, per Lord Bingham CJ. The requirement in head (3) in the text is the nub of the offence and defines the dishonest knowledge which constitutes the mens rea of the crime: see *R v Jones, R v Whicher* supra at 259 per Lord Bingham CJ. Honest belief in the truth of the declaration, and thus in the completeness and accuracy of the figures disclosed, is a complete defence; but it is for the prosecution to prove lack of honest belief and not for the defendant to prove his honesty: see *R v Jones, R v Whicher* supra at 259 per Lord Bingham CJ. Accordingly, the candidate is not required to perform the role of auditor to the agent: *Sharma v DPP* [2005] EWHC 902 (Admin), [2005] All ER (D) 214 (May) (where a candidate had conducted a superficial examination of the return, trusting that his agent had done his job properly, the candidate could state honestly that to the best of his knowledge and belief the return was complete and accurate).

B. BRIBERY

712. Bribery. A person[1] is guilty of a corrupt practice if he is guilty of bribery at an election[2]. A person is guilty of bribery if he, directly or indirectly, by himself[3] or by any other person on his behalf[4]:

(1) gives any money[5] or procures any office[6] to or for any voter[7] or to or for any other person[8] on behalf of any voter or to or for any other person in order to induce[9] any voter to vote or refrain from voting[10]; or

(2) corruptly[11] does any such act as aforesaid on account of any voter having voted or refrained from voting[12]; or

(3) makes any such gift or procurement as aforesaid to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election[13] or the vote of any voter[14],

or if upon or in consequence of any such gift or procurement as aforesaid he procures or engages, promises or endeavours to procure the return of any person at an election (or registered party at a European parliamentary election) or the vote of any voter[15].

1 As to the meaning of 'person' see para 110 note 1 ante.

2 Representation of the People Act 1983 s 113(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(1). The text refers to a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante; and as to European parliamentary elections see para 224 et seq ante. Bribery at a parliamentary or local government election was an offence at common law but the offence is now covered in the express statutory provisions. As to votes struck off for bribery see para 840 post; and as to the consequence of a corrupt practice see para 885 et seq post.

The Representation of the People Act 1983 s 113 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67–119) (as amended, applied and modified) (see para 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

3 Personal corruption ought not to be charged except upon good grounds (*Tewkesbury Case, Collins v Price* (1880) 3 O'M & H 97 at 99; cf *Canterbury Borough Case* (1880) 3 O'M & H 103 at 104), otherwise the petitioner will be penalised in costs (*Salisbury Case, Rigden v Edwards and Grenfell* (1880) 44 LT 193, 3 O'M & H 130; *Sandwich Case* (1880) 3 O'M & H 158). Where a candidate in person gives tickets to voters, and the tickets are exchangeable for money when presented to that candidate's agent, the court may find the agent personally guilty of bribery: *Canterbury Case* (1853) 2 Pow R & D 14 at 15 (in this case each voter was allowed to name two others for coloured tickets, and the parliamentary committee avoided the election). Where the candidate has not appointed another person as election agent, it is the more easy to establish personal bribery against that candidate: *Cashel Borough Case* (1869) 1 O'M & H 286 at 288.

4 Representation of the People Act 1983 s 113(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2); and see note 2 supra. A corrupt act done with a view to the betrayal of the candidate on whose behalf it purports to be done is not bribery for which he can be held liable: *Stafford Borough Case* (1869) 21 LT 210 at 212, 1 O'M & H 228 at 231.

5 'Giving money' includes giving, lending, agreeing to give or lend, offering, promising or promising to procure or to endeavour to procure any money or valuable consideration: Representation of the People Act 1983 s 113(2)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(i); and see note 2 supra. See further para 713 post.

6 'Procuring an office' includes giving, procuring, agreeing to give or procure, offering, promising or promising to procure or to endeavour to procure, any office, place or employment: Representation of the People Act 1983 s 113(2)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(ii); and see note 2 supra. A seat on a town council may be the means of bribery within this provision, because it is an office of honour and dignity and the natural and fair object of reasonable ambition on the part of many electors: *Waterford Borough Case* (1870) 2 O'M & H 24 at 25; *Roberts v Hogg* 1971 SLT 78.

7 For this purpose, 'voter' also includes any person who has or claims to have a right to vote: Representation of the People Act 1983 s 113(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(8); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(7); and see note 2 supra. The fact that the voter was ineligible for voting does not necessarily prevent it being bribery: *Lichfield Case, Anson v Dyott* (1869) 20 LT 11, 1 O'M & H 22; *Guildford Case* (1869) 19 LT 729, 1 O'M & H 13.

8 There must be distinct evidence that the gift was made to the third person with a view to bribing a particular voter: *Clare County Case* (1860) Wolf & B 138. Where money was alleged to have been distributed to non-voters in the expectation that they would spend it in drink at the public-houses and

thus indirectly influence the votes of the publicans, O'Brien J said 'this was not contemplated as being within the Act': *Youghal Borough Case* (1869) 1 O'M & H 291 at 294.

9 If the act is done for the purpose of so inducing the voter, it is no answer to say that the bribe was unsuccessful: *Henslow v Fawcett* (1835) 3 Ad & El 51 at 58; *Harding v Stokes* (1837) 2 M & W 233 at 235; *Sulston v Norton* (1761) 3 Burr 1235.

10 Representation of the People Act 1983 s 113(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(a); and see note 2 supra. There must be an inducement to vote or to refrain from voting for a particular person: *Cooper v Slade* (1856) 6 E & B 447 at 456; revsd on the facts (1858) 6 HL Cas 746. See also *Oldham Case* (1869) 20 LT 302 at 311, 1 O'M & H 151 at 165; *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 363.

11 'Corruptly' imports intention: *Wallingford Case* (1869) 19 LT 766 at 767–768, 1 O'M & H 57 at 58. 'Corruptly' does not mean wickedly, immorally or dishonestly or anything of that sort (*Bewdley Case* (1869) 19 LT 676 at 678, 1 O'M & H 16 at 19), but doing something knowing that it is wrong (*Bradford Case (No 2)* (1869) 19 LT 723 at 724, 1 O'M & H 35 at 37), and doing it with the object and intention of doing that thing which the statute intended to forbid (*Norfolk, Northern Division Case* (1869) 21 LT 264 at 268, 1 O'M & H 236 at 242).

12 Representation of the People Act 1983 s 113(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(b); and see note 2 supra.

13 References to procuring the return of any person at an election include, in the case of an election of the London members of the London Assembly at an ordinary election, references to procuring the return of candidates on a list of candidates submitted by a registered political party for the purposes of that election: Representation of the People Act 1983 s 113(2)(iii) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 30). For the meaning of 'London member' see para 10 note 5 ante. As to references to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election see para 237 note 14 ante. As to London Assembly ordinary elections see para 206 ante; and LONDON GOVERNMENT vol 29(2) (Reissue) para 88 et seq.

14 Representation of the People Act 1983 s 113(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2)(c); and see note 2 supra. This provision, originally enacted in 1854, was directed against any such extensive bribery as might amount to a purchase of a seat and against corrupt agreements with persons whose local influence would enable them to control the return: *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 102. Under the different conditions in which elections are now contested, this provision does not appear to be of much practical importance.

15 Representation of the People Act 1983 s 113(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(2); and see note 2 supra. As to bribery by receipt of a bribe see para 722 post.

713. Consideration for a bribe. The consideration for a bribe need not be money; it may be any money or valuable consideration[1]. The gift or promise of refreshments may amount to both treating and bribery[2]. Treating, however, will not as a rule be regarded as bribery if it takes the form of refreshment to be consumed at the moment and not pocketed, reserved or promised for future enjoyment, although whether it is or is not to be regarded as bribery will depend on the circumstances[3].

Loans may be as much bribery as absolute gifts[4]. Excessive payments may amount to bribery[5]. An offer to bribe is as bad as actual bribery, but it is more difficult to prove[6]. Colourable employment of any person to render valueless services is bribery[7].

1 See para 712 note 5 ante. Permission to shoot rabbits on the candidate's estate was held to be bribery in *Launceston Case* (1874) 30 LT 823 at 825 et seq, 2 O'M & H 129 at 133.

2 *Bodmin Case* (1869) 1 O'M & H 117 at 124; *Tynemouth Case* (1853) 21 LTOS 67; *Huddersfield Case, Priestley's Case* (1859) Wolf & B 28 at 36. As to the offence of bribery at elections see para 712 ante; and as to treating at elections see paras 724–725 post.

3 *Bodmin Case* (1869) 1 O'M & H 117; *Youghal Borough Case* (1869) 1 O'M & H 291.

4 See the meaning of 'giving money' in para 712 note 5 ante.

5 *Huddersfield Case, Priestley's Case* (1859) Wolf & B 28 at 36 (giving more for pigs than their real value); *St George's Division, Tower Hamlets, Case* (1895) 5 O'M & H 89 (giving more for services rendered than their real value); *Dartmouth Borough Case* (1859) Wolf & B 19 (payment without inquiry of more than a fair charge for a room for the candidate's wife to witness the election proceedings); *Hartlepools Case* (1910) 6 O'M & H 1 (where it was suggested that a legal expense may, if exaggerated, be turned into a

bribe, e g where by the provision of unnecessarily costly arrangements for conveying speakers and others to a meeting the persons conveyed are bribed); *Sandwich Case* (1880) 3 O'M & H 158 (hiring rooms for no object).

6 *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 107; and see the meanings of 'giving money' and 'procuring an office' in para 712 notes 5, 6 ante.

7 *Boston Case, Buxton v Garfit* (1880) 44 LT 287, 3 O'M & H 150; *Gravesend Case* (1880) 44 LT 64 at 65–66, 3 O'M & H 81 at 84; *Boston Case, Tunnard v Ingram* (1880) 44 LT 287, 3 O'M & H 151; *Stroud Case, Baynes v Stanton* (1874) 2 O'M & H 181 at 183; *Penryn Case* (1869) 1 O'M & H 127 at 129; *Cambridge Borough Case* (1857) Wolf & D 28; *Oxford City Case* (1857) Wolf & D 106 at 109.

714. Travelling expenses may constitute bribery. The unconditional payment, or promise of payment, to a voter of his travelling expenses is not bribery[1], but the payment or promise of payment to a voter of his travelling expenses on the condition, express or implied, that he would vote for a particular candidate is bribery[2].

The mere payment of travelling expenses after the poll and without proof of any previous promise to a voter who has come of his own accord and voted is not bribery, although it is an illegal payment[3]. The payment of a sum of money ostensibly as travelling expenses but in excess of the mere travelling expenses may be bribery even though it is paid unconditionally[4]. The payment of a substitute to do the voter's work while he votes is bribery[5].

1 *Cooper v Slade* (1856) 6 E & B 447 (revsd on the facts (1858) 6 HL Cas 746); *Bolton Case* (1874) 2 O'M & H 138 at 144. As to the offence of bribery at elections see para 712 ante.

2 *Cooper v Slade* (1858) 6 E & B 447; *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70; *Dublin City Case* (1869) 1 O'M & H 270; *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97; *Horsham Case, Aldridge v Hurst* (1876) 3 O'M & H 52.

3 *Harwich Borough Case* (1880) 3 O'M & H 61 at 67 (a case in which there was no doubt that the voter expected to be paid); *Maidstone Borough Case, Evans v Viscount Castlereagh* (1906) 5 O'M & H 200; c f *Horsham Case, Aldridge v Hurst* (1876) 3 O'M & H 52. See also *Wareham Case* (1857) Wolf & D 85 at 88, 29 LTOS 346 at 347.

4 *Stroud Case, Marling v Dorington* (1874) 2 O'M & H 179; *Louth, Northern Division Case* (1911) 6 O'M & H 103; c f *Salisbury Case, Rigden v Edwards and Grenfell* (1880) 44 LT 193 at 194, 3 O'M & H 130 at 133; *Maidstone Borough Case, Evans v Viscount Castlereagh* (1906) 5 O'M & H 200; *Carlisle Case* (1860) Wolf & B 90.

5 *Plymouth Case* (1880) 3 O'M & H 107. As to payments for loss of time while voting see para 715 post.

715. Time off to allow for voting may constitute bribery. Payments by an employer to his employees in respect of time lost while voting at elections have in certain cases been held to constitute bribery[1]. It is expressly provided, however, that nothing in the statutory provisions which relate to the election campaign[2] makes it illegal for an employer to permit electors or their proxies to absent themselves from his employment for a reasonable time[3] for the purpose of voting at the poll at a parliamentary[4], Welsh Assembly[5] or European parliamentary election[6], without having any deduction from their salaries or wages on account of their absence[7], if the permission is, so far as practicable without injury to the employer's business, given equally to all persons alike who are at the time in his employment[8] and if the permission is not given with a view to inducing any person to give his vote in a particular way at the election[9], and is not refused to any person for the purpose of preventing him from giving his vote in a particular way at the election[10]. This provision must not be construed as making illegal any act which would not be illegal apart from it[11].

1 See *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 20 LT 75, 1 O'M & H 66; *Gravesend Case* (1880) 44 LT 64, 3 O'M & H 81 (holiday with pay); *Simpson v Yeend* (1869) LR 4 QB 626. As to the offence of bribery at elections see para 712 ante.

2 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983 Pt II (ss 67–119) (as amended) or, in relation to a Welsh Assembly election, the National

Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35–84) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31–81) (as amended).

3 As to what is a reasonable time see *Aylesbury Case* (1886) 4 O'M & H 59 at 60–61.

4 For the meaning of 'parliamentary election' see para 9 ante.

5 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

6 As to European parliamentary elections see para 224 et seq ante.

7 Representation of the People Act 1983 s 117(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81.

8 Representation of the People Act 1983 s 117(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81(a).

9 Representation of the People Act 1983 s 117(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81(b).

10 Representation of the People Act 1983 s 117(2)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81(c).

11 Representation of the People Act 1983 s 117(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 82(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 81.

716. Payments for past services may constitute bribery. Payments for past services may in special circumstances amount to bribery. Thus payment on a balance due which had not been paid until an election occurred, and was then made by a person not liable for the debt and for the avowed purpose of inducing an elector to vote, was held to be bribery[1]. The promise of payment of an outstanding account on condition that the elector should forbear from voting for the opposing candidate as previously promised by him has been held to be bribery[2]. The payment of a just claim, however, will not lightly be taken to be bribery[3].

1 *Cambridge Borough Case* (1843) Bar & Arn 169. As to the offence of bribery at elections see para 712 ante.

2 *Sligo Borough Case* (1853) 2 Pow R & D 256.

3 *Galway Borough Case* (1857) Wolf & D 136 at 142.

717. Charitable gifts may constitute bribery. The distribution of genuine charitable gifts to voters has always been allowed[1]. On the other hand what are called charitable gifts may be merely a specious and subtle form of bribery[2]. If a gift is charitable, it will not become bribery because of the use made of it, even if political capital is made out of the gift[3]; it is not possible by any subsequent act to make that which was legal at the time illegal and criminal[4].

The imminence of an election is an important factor to be taken into consideration in deciding whether a particular act of charity amounts to bribery. A charitable design may be unobjectionable so long as no election is in prospect, but if an election becomes imminent the danger of the gift being regarded as bribery is increased[5]. It has been said that charity at election times ought to be kept in the background by politicians[6].

The question is one of degree. An isolated small donation on the occasion of a birth or death may not be bribery although such gifts on an extensive scale would lead to the inference that they were given to influence voters[7]. It is legitimate for a member of Parliament to benefit his constituency and the court will not therefore draw any adverse inference from the fact that he confines his charity to his constituency[8]. The care with which charity is dispensed by a candidate or his agents is also likely to be a factor to be considered[9]. An agent may turn what was intended by the candidate to be a charitable gift into a corrupt gift[10].

1 *Maldon Case* (1857) Wolf & D 162 at 163, 30 LTOS 76.

2 *Plymouth Case* (1880) 3 O'M & H 107.
3 *Dorsetshire, Eastern Division Case* (1910) 6 O'M & H 22 at 42. In *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133 at 135, 2 O'M & H 88 at 90, Bramwell B said that a man is not to refrain from doing that which he legitimately might have done on account of the existence of a motive which by itself would have been an illegitimate motive. It was similarly held in *Carrickfergus Borough Case* (1880) 3 O'M & H 90. In a later case, however, Pollock B and Bruce J disapproved of *Windsor Case, Herbert v Gardiner* supra, and said that the court must take all the facts into consideration and must then answer the question whether the motive of the act in question was true charity, or whether it was done in order to corrupt the minds of the voters: *St George's Division, Tower Hamlets, Case* (1895) 5 O'M & H 89 at 93–94. See also *Salisbury Case, Moore v Kennard* (1883) 4 O'M & H 21 at 29; *Nottingham Borough, East Division Case* (1911) 6 O'M & H 292 at 310; *King's Lynn Case, Flanders v Ingleby* (1911) 6 O'M & H 179 at 192. Subscriptions to charities stimulated by gratitude or hope of favours to come are not bribes: *Westbury Case, Laverton v Phipps, Harrop's Case* (1869) 1 O'M & H 47 at 49. As to the offence of bribery at elections see para 712 ante.
4 *Stafford County, Lichfield Division Case* (1895) 5 O'M & H 27.
5 *Kingston-upon-Hull, Central Division Case* (1911) 6 O'M & H 372 at 374.
6 *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 14; *Kingston-upon-Hull, Central Division Case* (1911) 6 O'M & H 372 at 380.
7 *Windsor Case, Richardson-Gardner v Eykyn* (1869) 19 LT 613, 1 O'M & H 1.
8 *Plymouth Case* (1880) 3 O'M & H 107; *Nottingham Borough, East Division Case* (1911) 6 O'M & H 292.
9 *Nottingham Borough, East Division Case* (1911) 6 O'M & H 292 at 309, 311; *Kingston-upon-Hull, Central Division Case* (1911) 6 O'M & H 372 at 380, 383, 390; *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610; *Stafford Borough Case* (1869) 21 LT 210 at 211, 1 O'M & H 228 at 230.
10 *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610.

718. Other instances of bribery. Taking a burdensome share in a building society in order to relieve a voter and thereby to induce him to vote has been held to be bribery[1], as also has a promise that the voter 'shall be no loser' by his coming to vote[2], paying a man's debts to release him from prison so that he could vote[3], and paying a man to personate a voter[4].

A corrupt agreement to vote for a certain candidate the benefit of which is afterwards taken over and adopted by another candidate has been held to be bribery for which the latter may be held liable[5].

An agreement to forgo payments of rent has been considered corrupt on the facts of the particular case[6].

1 *Bewdley Case, Spencer v Harrison* (1880) 44 LT 283, 3 O'M & H 145. As to the offence of bribery at elections see para 712 ante.
2 *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 20 LT 75 at 79, 1 O'M & H 66 at 67; but see para 714 ante.
3 *Londonderry Borough Case* (1869) 1 O'M & H 274.
4 *Lisburn Case* (1863) Wolf & B 221 at 225. As to personation see para 733 post.
5 *Dover Case* (1860) Wolf & B 121 at 126–127.
6 *Ipswich Case* (1857) Wolf & D 173 at 178.

719. Time of bribe. In order to constitute the offence of bribery[1] it does not matter how long before an election a bribe is given provided the bribe is operative at the time of the election[2]. Time is, however, material when considering the question of evidence; it is obvious that where a considerable time elapses between a bribe and an election the difficulty of proving bribery is much increased. If the act of bribery is committed shortly before the poll, the act will be assumed to be bribery until the contrary is shown[3]. If the act of bribery is committed after the voter has voted, it must be shown to have been done corruptly and for this purpose it is at least important to see whether it was done in pursuance of an antecedent promise[4].

1 As to the offence of bribery at elections see para 712 ante.
2 *Sligo Borough Case* (1869) 1 O'M & H 300; *Stroud Case* (1874) 2 O'M & H 181. See also *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133 at 136, 2 O'M & H 88 at 91 per Bramwell B (the force of a bribe must be in existence, continuing till the time of the election, before it will avoid the election).

3 *Limerick Borough Case* (1869) 1 O'M & H 260.

4 Bribery after the election is a difficult charge to establish (*Norwich Case* (1859) Wolf & B 58 at 62), but if clearly made out it is sufficient to avoid the election (*Harwich Borough Case* (1880) 3 O'M & H 61 at 70). Where a corrupt expectation on the part of the voter was followed by payment on behalf of the candidate, that voter's vote was struck off by a parliamentary committee (*Dublin Case* (1836) Falc & Fitz 88 at 204); and 'head money', 'market money' and 'dinner money' paid after the election to voters in pursuance of an understanding avoided the election (*Newcastle-under-Lyme Case* (1842) Bar & Aust 436 at 453; *Durham City Case* (1843) Bar & Arn 201 at 215). Whether an antecedent promise must necessarily be proved was left undecided in *Northallerton Case* (1869) 1 O'M & H 167. In *Caldicott v Corrupt Practices Comrs* (1907) 21 Cox CC 404, the court declined to convict in the absence of an antecedent promise; but in *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 212, the court did not accept this view but agreed that it was important to see whether there was an antecedent promise or not. See also *Stroud Case* (1874) 2 O'M & H 181 at 184; *Cooper v Slade* (1858) 6 HL Cas 746 at 790.

The time at which an alleged act of treating is done is also considered to be relevant to that particular offence: see para 725 post.

720. Payments for expenditure in bribes. A person is guilty of bribery if he advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or any part of it is to be expended in bribery at any election[1], or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election[2]. It is not necessary that the person to whom the money is paid should be the person who is intended to expend it in bribery; the payment of money into a bank to be expended in bribery would come within this provision[3].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante; and as to European parliamentary elections see para 224 et seq ante.

The Representation of the People Act 1983 s 113 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67–119) (as amended, applied and modified) (see para 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).

2 Representation of the People Act 1983 s 113(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(3); and see note 1 supra.

3 *Aylesbury Case* (1804) 2 Peck 258 at 259; *Rye Case* (1848) 1 Pow R & D 112.

721. Payment of legitimate expenses not to constitute bribery. The provisions relating to the payment of bribes at an election[1] do not extend and must not be construed as extending to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election[2]. This has been interpreted as meaning that the provisions in question do not extend to any money paid or agreed to be paid for or on account of any expenses incurred in good faith at or concerning any election, provided those expenses are not illegal on some other ground. For instance, the payment of expenses of committee rooms and advertisements is not

unlawful, even though they are incurred with a view to inducing the person receiving the payment to vote[3]. A public subscription for defraying a candidate's expenses is not illegal[4]; nor is it illegal for one candidate to pay the election expenses of another, unless the former intends by so doing to purchase any influence which the latter may have with the electors[5].

1 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983 s 113(1)–(3) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(1)–(4) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(1)–(3) (see paras 712, 720 ante). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante; and as to European parliamentary elections see para 224 et seq ante.

The Representation of the People Act 1983 s 113 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Representation of the People Act 1983 s 113(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(4); and see note 1 supra.

3 *Cooper v Slade* (1858) 6 HL Cas 746 at 766.

4 *Belfast Borough Case* (1869) 1 O'M & H 281 at 285.

5 *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97.

722. Offence of receiving bribe. A voter is guilty of bribery if, before or during an election[1], he directly or indirectly by himself or by any other person on his behalf receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting[2]. A person is also guilty of bribery if after an election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting[3]. Merely asking for a bribe has been held not to constitute an offence under these provisions[4].

The corrupt receipt of a bribe is a separate offence and distinct from that of which the briber is guilty[5].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante; and as to European parliamentary elections see para 224 et seq ante.

The Representation of the People Act 1983 s 113 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For these purposes, the provisions of the Representation of the People Act 1983 Pt II (ss 67–119) (as amended, applied and modified) (see para 238 et seq ante), prohibiting payments and contracts for payments, do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of those provisions: s 116 (applied and modified in relation to England by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and in relation to Wales by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2). For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Representation of the People Act 1983 s 113(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(5); and see note 1 supra. This provision concerns voters who receive bribes before or during, but not after, an election. As to votes struck off for bribery see para 840 post.

3 Representation of the People Act 1983 s 113(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 78(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 77(6); and see note 1 supra. This provision concerns voters and non-voters who receive bribes of money or valuable consideration, but not an office or employment, after an election. The provision has little practical significance now because it is unlikely to matter so much whether a particular person votes or abstains from voting since no constituency or electoral area consists of so few voters as was formerly the case.

4 *Mallow Borough Case* (1870) 2 O'M & H 18. See also *Ipswich Case* (1835) Kn & Omb 332.

5 *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610.

723. Proof of bribery. Due proof of a single act of bribery by or with the knowledge and consent of the candidate or by his agents, however insignificant that act may be, is sufficient to invalidate the election[1]. The judges are not at liberty to weigh its importance[2], nor can they allow any excuse, whatever the circumstances may be, such as they can allow in certain conditions in cases of treating or undue influence by agents[3]. For this reason, clear and unequivocal proof is required before a case of bribery will be held to have been established; and suspicion is not sufficient[4]. The confession of the person alleged to have been bribed is not conclusive[5].

A corrupt motive must in all cases be strictly proved[6]. For this purpose a corrupt motive in the mind of the person bribed alone is not enough; the question is as to the intention of the person who bribes him[7].

Where the evidence as to bribery consists merely of offers or proposals to bribe, stronger evidence will be required than in the case of a successful bribe because of the greater likelihood of there having been some misunderstanding[8]. A general conversation as to a candidate's wealth and liberality is not evidence of an offer to bribe[9]. General evidence may, however, be given to show what the character of particular acts has presumably been[10].

1 *Plymouth Case* (1880) 3 O'M & H 107 at 108.

2 *Shrewsbury Case* (1870) 2 O'M & H 36 at 37; *Norwich Case* (1871) 23 LT 701 at 704, 2 O'M & H 38 at 41.

3 See para 724 et seq post.

4 *Lichfield Case, Anson v Dyott* (1869) 20 LT 11 at 13 et seq, 1 O'M & H 22 at 28. Clear evidence must also be given that the person bribing was the candidate's agent: see paras 252–253 ante.

5 *Stroud Case, Baynes v Stanton and Dickinson* (1874) 2 O'M & H 107 at 108.

6 *Lichfield Case, Anson v Dyott* (1869) 20 LT 11, 1 O'M & H 22.

7 *Wallingford Case* (1869) 19 LT 766, 1 O'M & H 57; *Westminster Borough Case* (1869) 20 LT 238 at 245, 1 O'M & H 89 at 95.

8 *Cheltenham Case, Gardner v Samuelson* (1869) 1 O'M & H 62 at 64–65; *Mallow Borough Case* (1870) 2 O'M & H 18 at 22.

9 *Northallerton Case* (1869) 1 O'M & H 167 at 168.

10 *Beverley Case* (1869) 20 LT 792 at 795–796, 1 O'M & H 143 at 144–145.

C. TREATING

724. Treating. A person guilty of treating at an election[1] is guilty of a corrupt practice[2]. The following persons[3] are guilty of treating: (1) any person who corruptly[4], by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person[5]: (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting[6]; or (b) on account of that person or any other person having voted or refrained from voting,

or being about to vote or refrain from voting[7]; (2) every elector or proxy for an elector who corruptly accepts or takes any such meat, drink, entertainment, or provision[8].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante; and as to European parliamentary elections see para 224 et seq ante.

The Representation of the People Act 1983 s 114 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Representation of the People Act 1983 s 114(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(1); and see note 1 supra. As to the consequences of a corrupt practice see para 885 et seq post. Prior to the enactment of statutory provisions, treating was an offence at common law.

3 'Person' includes a corporate body: see para 110 note 1 ante.

4 For the meaning of 'corrupt' see para 712 note 11 ante; and as to what is regarded as corrupt in the context of treating see para 725 post. See also *Bradford Case (No 2)* (1869) 19 LT 723, 1 O'M & H 35; *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1; *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70, which cases concern treating to secure general popularity and therefore to influence votes.

5 Representation of the People Act 1983 s 114(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(2); and see note 1 supra.

6 Representation of the People Act 1983 s 114(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(2)(a); and see note 1 supra.

7 Representation of the People Act 1983 s 114(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(2)(b); and see note 1 supra.

8 Representation of the People Act 1983 s 114(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 79(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 78(3); and see note 1 supra. As to votes struck off for treating see para 840 post.

725. Treating must be corrupt. The essence of the offence of treating is that it should be corrupt[1]. Treating, in fact, is often innocent; and prima facie it will be taken so to be[2]. The statutory provision against treating does not in general apply to mutual treating between equals or to treating in connection with business matters, but it applies to the treating of an inferior by a superior, otherwise than in return for services rendered, with a view to securing the goodwill of the particular person treated and to influencing the vote[3]. The alleged offender's previous and habitual conduct will be considered[4]. No man is bound to abstain from customary and harmless hospitality because an election is pending[5].

Where refreshments are a mere incident of a political meeting there is no offence, but if persons are gathered together merely to gratify their appetites and so influence their votes, then it is corrupt treating[6]. The gift or promise of refreshments may amount to both treating and bribery[7]. It is not necessarily corrupt, however, to attract people to meetings by offering refreshments of a moderate kind[8]. The giving of refreshments to persons employed at the election, if done honestly and in good faith, is not illegal[9].

The time at which the act is done is also a relevant consideration, for the treating must have reference to some election and must be for the purpose of influencing the vote of the person treated[10], and must have a continuing operation on the elector at the time of the election[11].

A candidate at a general election may be guilty of treating even though the treating took place before the dissolution of Parliament and consequently before he came within the statutory definition of 'candidate'[12]. A corrupt act is not the less corrupt because it is done a long time before the election, but in determining whether it is reasonable to conclude that an act is done with a view to influencing votes, the element of time becomes a very material one[13]. Treating after an election, to be illegal, must be done under such circumstances as to lead to the inference that it was done in pursuance of an antecedent agreement[14].

Custom is only relevant as having some bearing on the intent of a particular individual[15].

A candidate who is reported by an election court guilty by his agents of treating may be excused from the consequences in certain circumstances[16].

1 As to the offence of treating see para 724 ante.

2 *Aylesbury Case* (1886) 4 O'M & H 59 at 63; cf *Shoreditch, Haggerston Division Case, Cremer v Lowles* (1896) 5 O'M & H 68 at 72, where on the facts of the particular case the judges differed. But treating intended to secure general popularity, and so to influence votes, is corrupt treating: *Bradford Case (No 2)* (1869) 19 LT 723, 1 O'M & H 35; *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1; *Ipswich Case* (1886) 54 LT 619, 2 TLR 477.

3 *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84, 54 LT 625.

4 *Aylesbury Case* (1886) 4 O'M & H 59 (school feast customarily given by respondent).

5 *Worcester Borough Case, Glaszard and Turner v Allsopp* (1892) Day 85 at 88.

6 *Rochester Borough Case* (1892) 4 O'M & H 156 at 157, where a threepenny ticket entitled the holder to partake of food and various wines. The practice of political associations giving entertainments, picnics, suppers, teas, sports etc has been judicially described as 'a practice dangerously akin to corrupt treating', and one which, 'if indulged in by a candidate, would certainly amount to corrupt treating' (*Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 at 150); but this is 'not an intimation that any of the transactions referred to are to be taken alone as amounting to corrupt treating'. It is always a question of intention, and the court looks to the whole of the circumstances in each case: *Rochester Borough Case* supra.

If you give drink to a man with the intention of confirming his vote and keeping up the party zeal of those believed to be already supporting your candidate, that is corrupt treating: *Cornwall, Bodmin Division Case* (1906) 5 O'M & H 225 at 231. Where a candidate is in the midst of people who are drinking and the worse for drink, it will not necessarily be inferred that because there was drinking there must have been treating: *Southampton Borough Case* (1895) 5 O'M & H 17.

7 *Bodmin Case* (1869) 1 O'M & H 117 at 124; *Tynemouth Case* (1853) 21 LTOS 67; *Huddersfield Case, Priestley's Case* (1859) Wolf & B 28 at 36. As to the offence of bribery see para 712 et seq ante.

8 *St George's Division, Tower Hamlets, Case* (1895) 5 O'M & H 89 at 99; *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 194. The question of corrupt treating must be in each case a question of fact. If the refreshments provided were excessive, if the occasions were numerous, and if there were other circumstances calculated to excite suspicion, a corrupt intention might be inferred: *St George's Division, Tower Hamlets, Case* supra.

9 *Westminster Borough Case* (1869) 20 LT 238, 1 O'M & H 89; *Bradford Case (No 2)* (1869) 19 LT 723, 1 O'M & H 35. See also *Barrow-in-Furness Case* (1886) 4 O'M & H 76, where non-workers participated in the refreshments.

10 *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 91, 54 LT 625 at 627. Treating at a local government election held shortly before a parliamentary election and with a view to influencing the latter is treating at the parliamentary election: *Hastings Case, Calthorpe and Sutton v Brassey and North, Foster's Case* (1869) 21 LT 234, 1 O'M & H 217; and see *Great Yarmouth Borough Case* (1906) 5 O'M & H 176.

11 *Tamworth Case, Hill and Walton v Peel and Bulwer* (1869) 20 LT 181, 1 O'M & H 75; *Berwick-upon-Tweed Case* (1803) 1 Peck 401 at 402; *Northumberland, Hexham Division Case* (1892) 4 O'M & H 143, as explained in *Rochester Borough Case* (1892) 4 O'M & H 156; *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89; *Cornwall, Bodmin Division Case* (1896) 5 O'M & H 225.

12 *Norwich Case, Birkebeck v Bullard* (1886) 4 O'M & H 84 at 86 (cf the report in 54 LT 625 at 627); *Aylesbury Case* (1886) 4 O'M & H 59 at 63; *Montgomery Boroughs Case* (1892) 4 O'M & H 167 at 168; *Walsall Borough Case* (1892) as reported in Day 106 at 112, where it was said that the period in respect of which a candidate can be held responsible must be confined within reasonable limits; *Youghal Election Petition*

(1869) IR 3 CL 530 (although it should be noted that the definition of treating in that case differed from the present definition (as to which see para 724 ante)). For the current statutory definition of 'candidate' see para 237 ante.

13 *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89 at 100–101; cf *Lancaster County, Lancaster Division Case* (1896) 5 O'M & H 39 at 43, where, although the person who eventually became the election agent took part in an entertainment given by a political association, it was held that there had not in the circumstances been any corrupt treating for which his principal, the candidate, was responsible.

14 *Brecon Borough Case, Watkins and Watkins v Holford* (1871) 2 O'M & H 43; *Harwich Borough Case* (1880) 3 O'M & H 61; *Poole Case, Hurdle and Stark v Waring* (1874) 31 LT 171, 2 O'M & H 123; *Kidderminster Case* (1874) 2 O'M & H 170; *Salford Case* (1869) 20 LT 120, 1 O'M & H 133. The time at which an alleged act of bribery is done is also considered to be relevant to that particular offence: see para 719 ante.

15 *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 193 per Channell J (otherwise even bribery might be justified upon the ground that it was the custom to take a coin for a vote).

16 See para 899 post.

D. UNDUE INFLUENCE

726. Undue influence. A person guilty of undue influence at an election[1] is guilty of a corrupt practice[2]. A person[3] is guilty of undue influence: (1) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint[4], or inflicts or threatens to inflict, by himself or by any other person, any temporal[5] or spiritual injury[6], damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting[7]; (2) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents[8] the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon[9] an elector or proxy for an elector either to vote or to refrain from voting[10].

A candidate who is reported by an election court guilty by his agents of the corrupt practice of undue influence may be excused from the consequences in certain circumstances[11].

1 Ie at a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante; and as to European parliamentary elections see para 224 et seq ante.

The Representation of the People Act 1983 s 115 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Representation of the People Act 1983 s 115(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 80(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 79(1); and see note 1 supra. As to votes struck off for undue influence see para 840 post; and as to the consequences of a corrupt practice see para 885 et seq post. See also *East Kerry Case* (1910) 6 O'M & H 58; *R v Rowe, ex parte Mainwaring* [1992] 4 All ER 821, [1992] 1 WLR 1059, CA, at 829 and 1068 per Farquharson LJ, at 830 and 1069 per Nolan LJ and at 831 and 1070 per Parker LJ (reference to a person being 'guilty' of corrupt practice connotes a criminal offence and, accordingly, a criminal standard of proof is to be applied in a civil court no less than in a criminal court). As to the standard of proof required for a vote to be avoided for personation see para 842 post.

3 'Person' includes a corporate body: see para 110 note 1 ante. A corporation cannot be convicted of an offence involving personal violence: *R v Cory Bros & Co* [1927] 1 KB 810.

4 As to the use or threatened use of force, violence or restraint see para 727 post.

5 As to temporal influences see para 728 post.

6 As to spiritual influence see para 729 post.

7 Representation of the People Act 1983 s 115(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 80(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 79(2)(a); and see note 1 supra.

8 In the case of a parliamentary or local government election, it is specified that a person is also guilty of undue influence if he intends to impede or prevent a voter: Representation of the People Act 1983 s 115(2)(b) (amended by the Electoral Administration Act 2006 s 39(1)(a)). See *R v Rowe, ex p Mainwaring* [1992] 4 All ER 821, [1992] 1 WLR 1059, CA, where the court refused to construe the words 'calculated to impede or prevent' from the Representation of the People Act 1983 s 115(2)(b) (as originally enacted) but advised its amendment by reference to the less blatant and less easily detected but no less effective methods of exerting influence which are available and are worthy of attracting a penalty. In *R v Rowe, ex p Mainwaring* supra at 826 and 1064–1065, Farquharson LJ explained that the difference between 'impeding' and 'preventing' lies in the effect on the voter's choice of candidate and that the operative time for the offence is the moment of voting: an improper influence which is brought to bear on the mind of a voter and causes him to vote as the person exercising that improper influence intended (when otherwise he would not), 'prevents' the free exercise of his franchise; a voter who, though influenced by the impropriety, is not thereby caused to vote in the way intended (either because he was going to vote that way anyway, or because the device did not cause him to change his allegiance), is 'impeded' in the free exercise of his franchise. See further *R v Rowe, ex p Mainwaring* supra at 830 and 1068–1069 per Nolan LJ.

9 In the case of a parliamentary or local government election, it is specified that a person is also guilty of undue influence if he intends so to compel, induce or prevail upon an elector: Representation of the People Act 1983 s 115(2)(b) (amended by the Electoral Administration Act 2006 s 39(1)(b)). See also note 8 supra.

10 Representation of the People Act 1983 s 115(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 80(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 79(2)(b); and see note 1 supra. In *Spencer v Huggett* [1997] 30 LS Gaz R 30 (cited in para 668 ante), it was held that the court had jurisdiction to grant an injunction to restrain a breach of the Representation of the People Act 1983 s 115(2)(b) (as originally enacted), where a candidate was alleged to be telling untruths about himself in nomination papers.

11 See para 899 post.

727. Use or threatened use of force, violence or restraint. It is the undue influence on individual voters and not general rioting or violence which constitutes the corrupt practice[1]. In order to constitute undue influence a threat must be serious and intended to influence the voter[2]. A threat may amount to undue influence even though the person using the threat has no power to carry it out[3]. An unsuccessful threat has been held to amount to undue influence[4]. It has been held to be an offence where a voter's sister was told that he would be hurt if she did not keep him at home[5].

1 *Cheltenham Case, Gardner v Samuelson* (1869) 1 O'M & H 62; *Nottingham Borough Case* (1869) 1 O'M & H 245. As to the offence of undue influence see para 726 ante; and as to the consequences of a corrupt practice see para 885 et seq post.

2 *North Norfolk Case* (1869) 1 O'M & H 236 at 240, 242. See also *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133 at 136, 2 O'M & H 88 at 91 per Bramwell B (the force of a threat must be in existence, continuing till the time of the election, before it will avoid the election).

3 *Oldham Case* (1869) 20 LT 302, 1 O'M & H 151 at 162.

4 *Northallerton Case* (1869) 1 O'M & H 167; *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152.

5 *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 140. There do not appear to be any cases where the threat was directed not against the voter but against a relative or friend of the voter.

728. Temporal influence. The law cannot strike at the existence of influence; it cannot take away from a man who has property, or who can give employment, the influence he has over those whom he can benefit[1]. A landlord is therefore entitled to use influence with his tenants if he does so legitimately[2]. He has a perfect right to choose a tenant who agrees with him in politics rather than one who does not[3]. A suggestion to a tenant to vote for a particular candidate and a request that, if the voter could not do so, he should stay at home and not vote against that candidate has been held not to exceed

the bounds of legitimate influence[4]; but the threat of eviction of a tenant, who then votes under the influence of that threat, is undue influence[5].

If an employer dismisses an employee, he may be called upon to prove that he has good grounds for the dismissal apart from political grounds[6], and if the dismissal were for political reasons it would amount to undue influence[7].

Where workmen for political purposes ill-treated certain of their fellow workmen and expelled them from a common place of employment, they were guilty of undue influence[8].

It has been laid down that to withdraw, or to threaten to withdraw, one's custom in order to induce a voter to vote or to abstain from voting amounts to undue influence[9]. On the other hand, it has been said that it is open to a man to say that he chooses to deal with another, not in accordance with the merits of the commodities he sells, but according to his politics on one side or the other[10]. A letter written by a lady withdrawing her custom from a voter, who occasionally looked after puppies for her, on the ground of his political views has been stated to be not sufficient to justify a criminal charge of undue influence[11]. It appears that the loss, or threat of loss, must be so serious that a judge could direct a jury in a criminal court to find the individual guilty of the statutory offence[12].

A promise to take no proceedings on a bill of sale if a voter voted as required might amount to undue influence[13].

1 *Lichfield Case, Anson v Dyott* (1869) 20 LT 11, 1 O'M & H 22.
2 *Galway Borough Case* (1869) 22 LT 75 at 77, 1 O'M & H 303 at 306.
3 *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133 at 137, 2 O'M & H 88 at 93, where the eviction of tenants for the way they voted at the previous election was held not to be undue influence on the ground that the undue influence undoubtedly used at the previous election had not been repeated at the election under consideration and was not still operative.
4 *Galway County Case* (1872) 2 O'M & H 46 at 54.
5 *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133, 2 O'M & H 88. As to the offence of undue influence see para 726 ante; and as to the consequences of a corrupt practice see para 885 et seq post.
6 *Blackburn Case* (1869) 1 O'M & H 198; *Dorsetshire, Eastern Division Case* (1910) 6 O'M & H 22 at 31, 46.
7 *Westbury Case, Laverton v Phipps, Harrop's Case* (1869) 20 LT 16 at 22, 1 O'M & H 47 at 52; *Wareham Case* (1857) Wolf & D 85 at 90, 29 LTOS 346 at 347 (threatening to dismiss an employee unless he voted for the sitting member); *Harwich Case (No 2)* (1866) 14 LT 383.
8 See *Blackburn Case* (1869) 20 LT 823, 1 O'M & H 198.
9 *R v Barnwell* (1857) 29 LTOS 107; *R v Wilson* (1910) Times, 12 July.
10 *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152.
11 *R v Wilson* (1910) Times, 12 July.
12 *North Norfolk Case* (1869) 1 O'M & H 236 at 241–242.
13 *Cheltenham Case, Digby's Case* (1866) 14 LT 839 at 841.

729. Spiritual influence. Ministers of religion may legitimately address their congregations upon the candidates' conflicting claims, but in this connection must not hold out hopes of reward for the hereafter, or threaten to excommunicate or to withhold the sacraments, or denounce the voting for any particular candidate as a sin[1].

1 *Galway Borough Case* (1869) 22 LT 75, 1 O'M & H 303; *Longford Case* (1870) 2 O'M & H 6; *Tipperary Case* (1870) 2 O'M & H 31; *Meath, Southern Division Case* (1892) 4 O'M & H 130; *Meath, Northern Division Case* (1892) 4 O'M & H 185 at 188.

730. Fraudulent device or contrivance. A candidate who has adopted a name which closely resembles that of another candidate standing at the same election may be held to contravene the statutory provisions aimed at preventing undue influence[1].

It is not clear whether matters relating to the secrecy of the ballot come within the statutory provisions or not. In one case a newspaper article distributed in a constituency alleged a plan by which it would be possible to ascertain after the election how each

voter had voted; on a prosecution for undue influence, the judges were divided in opinion, the senior judge holding that it was not within the provisions because it was impossible to specify or ascertain the individuals affected by it, the junior judge holding that it was within the provisions because it was a contrivance interfering with the free exercise of the franchise[2]. Where a number of voters who could read and write had been induced to vote as illiterates and so to disclose unnecessarily for whom they voted, the court held that, although the facts were suspicious and might be relevant on the question of intimidation, illegal intent had not been established and there was no proof of a contrivance[3].

A fraudulent scheme by which an elector is prevented from receiving a candidate's election literature may constitute undue influence, as his freedom of choice has been impeded[4].

Watching voters at polling stations in the hope that by so doing they might be induced to vote for a particular candidate, or at all events not to vote against him, has been held to be a legal, although an objectionable, practice[5].

An agreement by two voters to pair and not vote has in the absence of fraud been held not to come within the provisions even though one voter as the result of false information thought the other had voted and in consequence voted himself[6].

1 See *Lyell v Hayward (also known as Lyell)* (15 April 1997, unreported) (defendant's use of claimant's name on nomination papers was calculated to induce electors in the constituency to believe that he was in fact the claimant and constituted a fraudulent device or contrivance to impede or prevent the free exercise of the franchise of such electors). As to the offence of undue influence see para 726 ante.

A previous case of similar fact had been decided on the basis that the effect of a candidate adopting a name which was likely to mislead members of the electorate was an abuse of the electoral process and that this abuse allowed the court to exercise its powers to prevent an abuse of its own procedure: see *R v Returning Officer for the Parliamentary Constituency of Barnet and Finchley, ex p Bennett v Thatcher* (3 June 1983, unreported), CA (where a male candidate changed his name by deed poll to 'Margaret Thatcher' (who was then prime minister) and styled his address as 'Downing Street Mansions'; it was held that his nomination paper was designed to confuse the electorate and to make a farce of the electoral process and that, accordingly, his application for the discretionary remedy of judicial review of the returning officer's rejection of the nomination paper was refused without needing to determine whether or not the returning officer acted lawfully in so rejecting it). Where a nomination paper is an obvious unreality (e g if it purported to nominate a deceased Sovereign), it has been suggested, as an obiter dictum, that it ought to be rejected: *Harford v Linsksey* [1899] 1 QB 852 at 862, DC, per Wright J (but that case concerned the right of a validly nominated, but disqualified, candidate to bring an election petition). This suggestion was cited in *Hobbs v Morey* [1904] 1 KB 74 at 78, DC, but to support the proposition that, in the event of such a nomination being accepted, no notice of disqualification (as to which see para 273 ante) need be published by an opposing candidate.

2 *Down County Case* (1880) 3 O'M & H 115.

3 *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 139.

4 *Roberts v Hogg* 1971 SLT 78 (the accused took possession of election literature of another party which was intended for distribution to the electors prior to a local government election; it was found that he took it, not to distribute it, but to destroy or suppress it, and he was convicted), cited with approval in *R v Rowe, ex p Mainwaring* [1992] 4 All ER 821, [1992] 1 WLR 1059, CA, to support the point that the Representation of the People Act 1983 s 115(2)(b) (as amended) does not rely on intention only.

5 *Lichfield Borough Case* (1880) 3 O'M & H 136; *Dorsetshire, Eastern Division Case* (1910) 6 O'M & H 22 at 48.

6 *Northallerton Case* (1869) 1 O'M & H 167 at 169.

731. Acquiescence by official in face of undue influence. A mere passive outsider who owes no duty to interfere or prevent undue influence cannot be made responsible for it; but a person in a position of authority and responsibility who, without being personally guilty of any overt act, nevertheless does nothing to prevent the undue influence becomes responsible for the undue influence if it is clear that he could have prevented it if he had chosen to do so[1].

1 *Louth, Northern Division Case* (1911) 6 O'M & H 103 at 143.

(v) Offences which are also Corrupt Practices

732. Offences which also constitute corrupt practices. The following offences are also deemed to be corrupt practices[1]: (1) personation[2]; (2) certain offences associated with postal or proxy voting[3].

1 As to the consequences of corrupt practices see para 885 et seq post.

2 See para 733 post.

3 See para 734 post.

733. Personation. A person[1] is guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation at an election or referendum[2]. A person is deemed to be guilty of personation if he: (1) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person[3]; or (2) votes in person or by post as proxy for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person[4]; or (3) votes in person or by post as proxy when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force[5].

A person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, is deemed to have voted[6].

Mens rea is an essential ingredient in personation[7], and an agent who honestly believes that the person whom he is instigating to vote is the person whose name is on the register is not guilty of a corrupt practice, although the person whose vote is in question may know that he is not the person whose name is on the register[8]. On the same principle, if a person innocently votes in the name of another this does not amount to personation[9].

1 As to the meaning of 'person' see para 110 note 1 ante.

2 Representation of the People Act 1983 s 60(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(1). For an example of inducing a person to commit personation see *R v Hague* (1864) 4 B & S 715. The Police and Criminal Evidence Act 1984 s 24A (as added; prospectively amended) (arrest without warrant (other persons): see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) para 925) does not permit a person other than a constable to arrest inside a polling station a person who commits or is suspected of committing an offence under the Representation of the People Act 1983 s 60: Electoral Administration Act 2006 s 71. As to striking off a vote for personation see para 842 post; as to the consequences of corrupt practices generally see para 885 et seq post; and as to the avoidance of an election on report of a corrupt practice see para 892 post.

The text refers to a parliamentary or local government election or a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante; and as to European parliamentary elections see para 224 et seq ante. As to the application of the Representation of the People Act 1983 s 60 for the purposes of a poll consequent on a parish or community meeting see s 187(1) (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 64, Sch 5); and the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a), (d). As to the application and modification of the Representation of the People Act 1983 s 60 for the purposes of local authority referendums see, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

3 Representation of the People Act 1983 s 60(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(2)(a); and see note 2 supra. If the name of the voter was placed on the register with

the intention of enabling him to vote, he does not commit the offence by applying for a ballot paper in that name, even though the name is not his own: *R v Fox* (1887) 16 Cox CC 166; and see *Oldham Case* (1869) 1 O'M & H 151 at 152.

4 Representation of the People Act 1983 s 60(2)(b)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(2)(b)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(2)(b)(i); and see note 2 supra.

5 Representation of the People Act 1983 s 60(2)(b)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(2)(b)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(2)(b)(ii); and see note 2 supra. As to the challenge and arrest of a person suspected of personation see para 405 ante.

6 Representation of the People Act 1983 s 60(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23(3); and see note 2 supra.

7 *Gloucester Borough Case, Guise v Wait* (1873) 2 O'M & H 59 at 63–64; *Stepney Division, Tower Hamlets Case* (1886) 54 LT 684 at 685. A candidate is nevertheless liable to have his election avoided for corrupt practices (including procuring personation) committed by his agent even though the acts were unauthorised by him: see *Gloucester Borough Case* supra; and see also para 251 ante.

8 *Gloucester Borough Case, Guise v Wait* (1873) 2 O'M & H 59 at 63. Conversely, the agent may be guilty although the voter may be innocent: *Hexham Case* (1892) cited in Day 68.

9 *Athlone Borough Case* (1880) 3 O'M & H 57 at 59 (where a son, who succeeded his father, having the same name, voted in the name of his father, who was in fact the person intended on the register).

734. Offences associated with postal or proxy voting which are corrupt practices. A person[1] commits an offence if he engages in any act specified in heads (1) to (4) below at a parliamentary[2] or local government election[3], and if he intends, by doing so, to deprive another of an opportunity to vote or to make for himself or another a gain of a vote to which he or the other is not otherwise entitled or a gain of money or property[4]. The prohibited acts are: (1) applying for a postal or proxy vote[5] as some other person (whether that other person is living or dead or is a fictitious person)[6]; (2) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote[7]; (3) inducing the registration officer[8] or returning officer[9] to send a postal ballot paper[10] or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote[11]; (4) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient[12].

A person who commits such an offence or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice[13].

1 As to the meaning of 'person' see para 110 note 1 ante.

2 For the meaning of 'parliamentary election' see para 9 ante.

3 Representation of the People Act 1983 s 62A(1)(a) (s 62A added by the Electoral Administration Act 2006 s 40). For the meaning of 'local government election' see para 10 ante. The Representation of the People Act 1983 s 62A (as added) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see para 388 ante.

4 Representation of the People Act 1983 s 62A(1)(b) (as added: see note 3 supra). For this purpose, property includes any description of property: s 62A(3) (as so added). The provision set out in the text covers the kinds of abuse that were found to have prevailed in *Akhtar v Jahan, Iqbal v Islam* [2005] All ER (D) 15 (Apr) (revsd in part sub nom *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823), cited in para 893 note 7 post.

5 For these purposes, a reference to a postal vote includes a reference to a proxy postal vote: Representation of the People Act 1983 s 62A(4) (as added: see note 3 supra).

6 Ibid s 62A(2)(a) (as added: see note 3 supra). As to applications for an absent vote see para 372 et seq ante.

7 Ibid s 62A(2)(b) (as added: see note 3 supra).

8 As to electoral registration officers see para 154 et seq ante.

9 As to returning officers for parliamentary elections see para 355 et seq ante; and as to returning officers for local government elections see para 359 et seq ante.

10 For these purposes, a reference to a postal ballot paper includes a reference to a proxy postal ballot paper: Representation of the People Act 1983 s 62A(4) (as added: see note 3 supra).

11 Ibid s 62A(2)(c) (as added: see note 3 supra).
12 Ibid s 62A(2)(d) (as added: see note 3 supra).
13 Ibid s 62A(5) (as added: see note 3 supra).

(vi) Offences

735. Offences. The following are offences which do not constitute either a corrupt or illegal practice[1]: (1) interfering with or obstructing the registration officer's duty to maintain electoral registers[2]; (2) interference with documents published or made available by the registration officer in pursuance of his duties[3]; (3) unlawful disclosure of the full electoral register or its contents[4]; (4) making a false statement in or irregular attestation of any declaration or form used in connection with absent voting[5]; (5) making a false or irregular declaration of local connection, service declaration or overseas elector's declaration[6]; (6) making a false statement in any application or declaration required for registration or nomination purposes by a relevant citizen of the Union[7]; (7) breaches of official duty[8]; (8) tampering with nomination or ballot papers[9]; (9) contravening the requirement to keep the ballot secret[10]; (10) publishing an exit poll before the poll is closed[11]; (11) failure to comply with conditions on access to or control of election documents[12]; (12) acting as a candidate's agent while an election official[13]; (13) canvassing in the police area while a member of the police force[14]; (14) failure to display required details on election or referendum publications[15]; (15) contravening the controls imposed on expenditure incurred during election and referendum campaigns[16]; (16) contravening the controls imposed on donations during election and referendum campaigns[17]; (17) obstructing the Electoral Commission in its duties[18].

1 As to illegal practices (including those which are also offences) see para 674 et seq ante; as to corrupt practices (including those which are also offences) see para 707 et seq ante; and as to the punishment of offences see para 880 et seq post.
2 See para 736 post.
3 See para 736 post.
4 See para 737 post.
5 See para 738 post.
6 See para 738 post.
7 See para 739 post.
8 See para 740 post.
9 See para 741 post.
10 See paras 742–746 post.
11 See para 747 post.
12 See para 748 post.
13 See para 749 post.
14 See para 750 post.
15 See paras 751–753 post.
16 See para 754 post.
17 See para 755 post.
18 See para 756 post.

736. Interference with the duties of registration officer. If any person fails to comply with any requisition of a registration officer[1] to give information required for the purposes of that officer's duties in maintaining registers of parliamentary and local government electors[2], that person is liable on summary conviction to a fine[3].

If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with his registration duties or any copies of a document which have been made available for inspection in pursuance of those duties, he is liable on summary conviction to a fine[4].

1 Ie any such requisition as is mentioned in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 23 (as amended) (see para 157 ante). As to electoral registration

officers see para 154 et seq ante. By virtue of reg 13(6), (7), reg 23 (as amended) applies to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration: see para 116 note 7 ante.

2 As to the duty of registration officers to maintain, prepare and publish registers of electors see para 156 ante.

3 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 23(3). The penalty is a fine not exceeding level 3 on the standard scale: see reg 23(3). The 'standard scale' means the standard scale of maximum fines for summary offences as set out in the Criminal Justice Act 1982 s 37 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1676; MAGISTRATES vol 29(2) (Reissue) para 804. At the date at which this title states the law, the standard scale is as follows: level 1, £200; level 2, £500; level 3, £1,000; level 4, £2,500; level 5, £5,000: Criminal Justice Act 1982 s 37(2) (substituted by the Criminal Justice Act 1991 s 17(1)). As to the determination of the amount of the fine actually imposed, as distinct from the level on the standard scale which it may not exceed, see the Criminal Justice Act 2003 s 164 (as amended); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1678; MAGISTRATES vol 29(2) (Reissue) para 807.

4 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 11; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 145; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 13. The penalty is a fine not exceeding level 3 on the standard scale: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 11; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 145; and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 13. Although Sch 2 makes provision for the purposes of a European parliamentary election with respect to absent voting in particular, its general purpose is to make provision with respect to the manner of voting at such elections (see para 370 et seq ante) and the prohibition set out in Sch 2 para 13 appears to have a general effect. The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 11 applies, by virtue of reg 13(6), (7), to a European parliamentary overseas elector's declaration and registration as it applies to an overseas elector's declaration and registration (see para 116 note 7 ante) and, for the purposes of the registration of relevant citizens of the Union as European parliamentary electors, as it applies for the purposes of the registration of parliamentary and local government electors, subject to any modification and exceptions specified in relation to those provisions in the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule (see para 117 note 5 ante). The Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 11 has also been applied and modified for the purposes of a local authority referendum, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 4. For the meaning of 'referendum' see para 576 note 2 ante.

737. Offences connected with supply and inspection of the full electoral register and associated records. A person who inspects the full register[1] and makes a copy of it or records any particulars included in it otherwise than by means of handwritten notes[2] is guilty of an offence and liable on summary conviction to a fine[3]. A person who inspects the copy of the full register that is held by the British Library[4] or by the National Library of Wales[5] or the copy that is supplied to the Office for National Statistics[6] or any copy that is supplied to a public library or a local authority archives service[7], or who inspects a copy of any information which would be included in the postal voters lists[8], the list of proxies[9] or the proxy postal voters lists[10], whether a printed copy or in data form[11], and makes copies of any part of it or them (as the case may be), or records any particulars included in it or them (as the case may be), otherwise than by means of handwritten notes, is guilty of an offence[12] and is liable on summary conviction to a fine[13].

A person is guilty of an offence and liable on summary conviction to a fine if he contravenes any of the following provisions[14] relating to disclosure of the full register or associated records[15]:

(1) a returning officer[16] or counting officer[17] to whom the registration officer[18] supplies, together with the copy of the register (or any part thereof), a copy of

the record of anonymous entries[19] (or any part thereof) may not supply to any person a copy of the record or disclose information contained in it or make use of any such information, otherwise than for the purposes of an election or referendum (as the case may be)[20];

(2) each person who has been supplied with a copy of the record of anonymous entries in accordance with the Juries Act 1974[21] may not supply a copy of the record or disclose information contained in it or make use of any such information, otherwise than for the purpose of summoning jurors[22];

(3) no person serving as an officer or employee in the Security Service[23], the Government Communications Headquarters[24] or the Secret Intelligence Service[25], to whom the registration officer has supplied a copy of the record of anonymous entries, together with the register, may supply to any person a copy of the record, disclose any information contained in it or make use of any such information, otherwise than for purposes connected with the carrying out of any of his statutory functions[26];

(4) no person serving whether as a constable, officer or employee of any police force in Great Britain[27], the Police Information Technology Organisation[28], any body of constables established under an Act or the Serious Organised Crime Agency[29], to whom the registration officer has supplied a copy of the record of anonymous entries together with the register, may supply to any person a copy of the record, disclose any information contained in it or make use of any such information, otherwise than for the purposes of the prevention and detection of crime and the enforcement of the criminal law (whether in England and Wales or elsewhere) or the vetting of a relevant person for the purpose of safeguarding national security[30];

(5) no person who obtains any information which would be included in the postal voters lists, the list of proxies or the proxy postal voters lists may use it for other than the permitted purposes[31] or in contravention of any restrictions which are specified or which would apply to the use of the full register under the provisions by virtue of which the information was supplied[32];

(6) the processor[33] of registration data may not disclose the full register or the information contained in it except to the person who supplied it to the processor or an employee of that person or to a person who is entitled to obtain a copy of the full register or any employee of such a person[34];

(7) the registration officer or a member of his staff[35] may not supply to any person a copy of the full register or disclose information contained in it (which is not contained in the edited register[36]) or make use of any such information, otherwise than in accordance with the statutory provisions[37];

(8) any officer to whom copies of the register are delivered under the Juries Act 1974[38] and any other person to whom a copy of the full register has been supplied or to whom information contained in it has been disclosed for the purpose of summoning jurors may not supply a copy of the full register or disclose information contained in it (which is not contained in the edited register) or make use of any such information, otherwise than for the purpose of summoning jurors[39];

(9) a person to whom a copy of the full register has been supplied for a permitted purpose (and any person who has obtained access to a copy of the full register or information contained in it by any other means) may not supply a copy of the full register or disclose information contained in it (and not contained in the edited register) or make use of any such information, other than for a permitted purpose[40];

(10) a person employed by the British Library or by the National Library of Wales to whom a free copy of the full register has been supplied may not supply a copy of the full register other than to another such person or to a person using that library to inspect it under supervision, or disclose information contained in it (and not contained in the edited register) otherwise than by allowing a person using that library to inspect it under supervision or make use of any such information[41];

(11) a person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed by a person employed by the British Library or by the National Library of Wales in circumstances where more than ten years have expired since that version of the register was first published and the supply or disclosure is for research purposes in compliance with the relevant conditions[42]) may not supply a copy of it, or disclose any such information or make use of any such information, otherwise than for research purposes in compliance with the relevant conditions[43];

(12) a returning officer[44] to whom a copy of the register has been supplied for electoral purposes may not supply a copy of the full register or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, other than for the purposes of an election[45];

(13) a person employed by the Office for National Statistics may not supply a copy of the full register other than to another such person or disclose any information contained in it (that is not contained in the edited register) otherwise than by allowing a person using the premises of that office to inspect it under supervision or by publishing information about electors which does not include the name or address of any elector or make use of any such information other than for statistical purposes[46];

(14) a person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed by a person employed by the Office for National Statistics in circumstances where more than ten years have expired since that version of the register was first published and the supply or disclosure is for research purposes in compliance with the relevant conditions) may not supply a copy of it, or disclose any such information or make use of any such information, otherwise than for research purposes in compliance with the relevant conditions[47];

(15) the Electoral Commissioners or any person employed by the Electoral Commission[48] may not supply a copy of the full register other than to an Electoral Commissioner or another such person or disclose any information contained in it that is not contained in the edited register (otherwise than where necessary to carry out the Commission's duties in relation to the rules on permissible donors in the Political Parties, Elections and Referendums Act 2000 or by publishing information about electors which does not include the name or address of any elector) or make use of any such information otherwise than in connection with their functions under, or by virtue of, the Political Parties, Elections and Referendums Act 2000[49];

(16) a member of the Boundary Commission for England[50] or of the Boundary Commission for Wales[51] or of the Local Government Boundary Commission for Wales[52] or a person appointed to assist the Commission in question to carry out its functions or a person employed by the Commission in question may not supply a copy of the full version of the register, other than to another relevant person or disclose any information contained in it and not contained in the edited register (otherwise than by publishing information about electors which

does not include the name and address of any elector) or process or make use of any such information, other than in connection with their statutory functions[53];

(17) an elected representative person who has been supplied with a copy of the register for electoral purposes may not supply a copy of the full register to any person or disclose any information contained in it that is not contained in the edited register or make use of any such information, otherwise than for purposes in connection with the office by virtue of which he is entitled to the full register or for electoral purposes[54];

(18) the holder of a relevant elective office[55] or a candidate[56] for election at a parliamentary[57], local government[58] or Authority election[59] who has been supplied with a copy of the register may not supply a copy of the full register to any person, or disclose any information contained in it that is not contained in the edited register, or make use of any such information otherwise than for the purpose of complying with the controls on donations[60];

(19) any person nominated to act for a particular constituency by the registered nominating officer of a registered political party[61] who has been supplied with a copy of the register may not supply a copy of the full register to any person or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, otherwise than for electoral purposes or the purposes of electoral registration[62];

(20) a person employed by, or assisting (whether or not for reward) a registered political party other than a minor party[63], a recognised third party[64] other than a registered political party or a permitted participant[65] other than a registered political party, and to which a copy of the register has been supplied, may not supply a copy of the full register to any person or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, otherwise than for electoral or referendum purposes or for the purpose of complying with the relevant controls on donations[66];

(21) a councillor or employee of the local authority may not supply a copy of the full register to any person other than to another councillor of or employee of the same local authority or disclose any information contained in it that is not included in the edited register or make use of any such information, except where necessary for the discharge of a statutory function of the local authority or any other local authority relating to security, law enforcement and crime prevention or for the purposes of a local poll under the Local Government Act 2003[67] or for statistical purposes (in which case no information is to be disclosed which includes the name and address of any elector)[68];

(22) a parish or community councillor or a person employed by or otherwise assisting (whether or not for reward) a parish or community council and to which a copy of the register has been supplied may not supply a copy of the full register to any person or disclose any information contained in it that is not included in the edited register or make use of any such information, otherwise than for the purpose of establishing whether any person is entitled to attend and participate in a meeting of, or take any action on behalf of, the parish or community, as the case may be, or for the purposes of a local poll under the Local Government Act 2003[69];

(23) a specified candidate or election agent to whom a copy of the register has been supplied may not supply a copy of the full register to any person or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, other than for electoral purposes[70];

(24) a person authorised by a government department[71] to be supplied with a copy

of the full register (or a person to whom he discloses information which is contained in the full register) may not disclose information contained in the full register except to any person falling within heads (17) to (23) above and for use for the purposes for which such a person could obtain a copy of the register under the provision concerned[72];

(25) a person serving whether as a constable, officer or employee in specified police forces and organisations or specified security and intelligence services may not supply a copy of the full register to any person or disclose any information contained in it (that is not contained in the edited register) or make use of any such information, otherwise than (in the case of specified police forces and organisations) for the prevention and detection of crime and the enforcement of the criminal law (whether in England and Wales or elsewhere) or for the vetting of a relevant person for the purpose of safeguarding national security and (in the case of the security and intelligence services specified) for those purposes connected with the carrying out of any of their statutory functions[73];

(26) a person employed by the public library or the local authority archives service may not supply a copy of the full register other than to another such person or to a person using the library or the archives service to inspect it under supervision, or disclose any information contained in it (that is not contained in the edited register) otherwise than by allowing a person using the library or the archives service to inspect it under supervision, or make use of any such information[74];

(27) a person who obtains a copy of the full register (or to whom information contained in it that is not contained in the edited register is disclosed by a person employed by a public library or local authority archives service in circumstances where more than ten years have expired since that version of the register was first published and the supply or disclosure is for research purposes in compliance with the relevant conditions) may not supply a copy of it, or disclose any such information or make use of any such information, otherwise than for research purposes in compliance with the relevant conditions[75];

(28) a person in a specified government department or credit reference agency to which a copy of the register has been supplied (or, consequently, a person to whom a copy of the full register is supplied or to whom information contained in it is disclosed) may not supply a copy of the full register to any person or disclose any information contained in it (and not contained in the edited register) or make use of any such information, other than for the purpose set out in the provision by virtue of which the full register has been supplied[76].

1 For the meaning of 'full register' see para 166 notes 2, 9 ante.

2 As to provision made for inspection of the full register see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(2)–(5) (as added); and para 166 note 9 ante.

3 Ibid reg 7(4) (reg 7(2)–(5) added by SI 2002/1871). The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 7(4) (as so added). As to the standard scale see para 736 note 3 ante.

By virtue of the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(6), (7), reg 7 (as amended) is applied with modifications to registration in pursuance of a European parliamentary overseas elector's declaration as it applies to registration in pursuance of an overseas elector's declaration (see para 116 note 7 ante); and for the purposes of extending the rights of relevant citizens of the Union who (subject to the requirements of registration) may vote at European parliamentary elections, reg 7 (as amended) is applied with modifications (see the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule; and para 117 note 5 ante).

4 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 97(4) (as added and amended); and para 177 ante.

5 See ibid reg 97A(6) (as added); and para 177 ante.

6 See ibid reg 99(5) (as added and amended); and para 183 ante.
7 See ibid reg 109A(8) (as added); and para 178 ante.
8 For the meaning of 'postal voters lists' see para 378 note 7 ante.
9 For the meaning of 'list of proxies' see para 378 note 14 ante.
10 See the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 61(14) (as substituted); and paras 378, 386 ante. For the meaning of 'proxy postal voters lists' see para 386 note 6 ante.
11 For the meaning of 'data form' see para 177 note 11 ante.
12 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(1), (2) (reg 115 added by SI 2002/1871; and substituted by SI 2006/2910). A person is guilty of an offence as mentioned in the text if he contravenes any of the provisions specified in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted) (see the text and notes 4–11 supra; and see also heads (1) to (28) in the text) or if he is an appropriate supervisor of a person (P) who fails to comply with any of those provisions and he failed to take appropriate steps: reg 115(1) (as so added and substituted). However, P is not guilty of an offence under reg 115(1) (as added and substituted) if he has an appropriate supervisor and he has complied with all the requirements imposed on him by his appropriate supervisor: reg 115(3) (as so added and substituted). Nor is a person who is not P or an appropriate supervisor guilty of an offence under reg 115(1) (as added and substituted) if he takes all reasonable steps to ensure that he complies with the provisions specified in reg 115(2) (as added and substituted): reg 115(4) (as so added and substituted). For these purposes, an 'appropriate supervisor' is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is; and 'appropriate steps' are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the provisions in reg 115(2) (as added and substituted): reg 115(5) (as so added and substituted).
13 Ibid reg 115(6) (as added and substituted: see note 12 supra). The penalty is a fine not exceeding level 5 on the standard scale: see reg 115(6) (as so added and substituted).
14 Ie if he contravenes any of the provisions described in heads (1) to (28) in the text, or if he is an appropriate supervisor of a person who fails to comply with any of the specified provisions and he failed to take appropriate steps: see note 12 supra.
15 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(1), (6) (as added and substituted: see note 12 supra). The penalty is a fine not exceeding level 5 on the standard scale: see reg 115(1), (6) (as so added and substituted). As to defences see note 12 supra.
16 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; as to the returning officer at elections for the return of members of the National Assembly for Wales see para 362 ante; and as to returning officers for European parliamentary elections see para 365 et seq ante.
17 As to the counting officer see para 591 note 2 ante.
18 As to the registration officer see para 154 ante.
19 As to the form and content of the record of anonymous entries see para 160 ante.
20 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (1) in the text recites the prohibition that is contained in reg 45C(4) (as added) (see para 179 ante).
21 Ie either in accordance with ibid reg 45D (as added) (see para 176 ante) or in accordance with the Juries Act 1974 s 3(1A) (as added) (see JURIES).
22 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (2) in the text recites the prohibition that is contained in reg 45D(4) (as added) (see para 176 ante).
23 As to the Security Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 471.
24 As to the Government Communications Headquarters see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 473.
25 As to the Secret Intelligence Service see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 472.
26 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (3) in the text recites the prohibition that is contained in reg 45E(3) (as added) (see para 182 ante).
27 As to police authorities and areas see POLICE vol 36(1) (Reissue) para 313 et seq.
28 As to the Police Information Technology Organisation see POLICE vol 36(1) (Reissue) paras 363–368.
29 As to the Serious Organised Crime Agency see POLICE.
30 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (4) in the text recites the prohibition that is contained in reg 45F(3) (as added) (see para 182 ante).

31 For the meaning of 'permitted purpose' see para 176 note 18 ante.
32 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (5) in the text recites the prohibition that is contained in reg 61(3) (as substituted) (see paras 378, 386 ante).
33 For the meaning of 'processor' see para 177 note 11 ante.
34 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (6) in the text recites the prohibition that is contained in reg 92(9) (as added) and refers to persons entitled to obtain a copy of the full register under the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) (see para 177 note 11 ante).
35 As to the appointment of deputies and assistants to the registration officer see para 155 ante.
36 For the meaning of 'edited register' see para 166 note 4 ante.
37 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (7) in the text recites the prohibition that is contained in reg 94(3) (as added) and refers to the statutory provisions contained in any enactment, including the Representation of the People (England and Wales) Regulations 2001, SI 2001/341 (as amended) (see para 176 ante). For the meaning of 'enactment' see para 176 note 8 ante.
38 Ie under the Juries Act 1974 s 3(1) (as amended) (electoral register as basis of jury selection: see JURIES vol 26 (2004 Reissue) para 512).
39 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (8) in the text recites the prohibition that is contained in reg 95(2) (as added) (see para 176 ante).
40 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (9) in the text recites the prohibition that is contained in reg 96(2) (as added and amended) (see para 176 ante).
41 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (10) in the text recites the prohibition that is contained, in relation to England, in reg 97(2) (as added and amended) and, in relation to Wales, in reg 97A(4) (as added) (see para 177 ante).
42 For the meaning of 'relevant conditions' see para 177 note 11 ante.
43 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (11) in the text recites the prohibition that is contained, in relation to England, in reg 97(6) (as added) and, in relation to Wales, in reg 97A(8) (as added) (see para 177 ante).
44 Ie, for these purposes, the returning officer for a non-metropolitan county, the persons or officers who are the returning officers at an election of members of the London Assembly and of the Mayor of London or the returning officer appointed for elections to each parish or community council within the electoral area: see ibid reg 98(2) (as added); and para 179 ante.
45 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (12) in the text recites the prohibition that is contained in reg 98(9) (as added) (see para 179 ante).
46 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (13) in the text recites the prohibition that is contained in reg 99(3) (as added and amended) (see para 183 ante).
47 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (14) in the text recites the prohibition that is contained in reg 99(7) (as added) (see para 183 ante).
48 As to the Electoral Commission see para 31 et seq ante.
49 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (15) in the text recites the prohibitions contained in reg 100(3), (5) (as added) (see para 180 ante).
50 As to the Boundary Commission for England see para 67 ante.
51 As to the Boundary Commission for Wales see para 67 ante.
52 As to the Local Government Boundary Commission for Wales see para 71 ante.
53 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (16) in the text recites the prohibition that is contained in reg 101(6) (as added) (see para 181 ante).
54 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (17) in the text recites the prohibition that is contained in reg 103(3) (as added) (see para 182 ante).
55 Ie the holder of a relevant elective office within the meaning of the Political Parties, Elections and Referendums Act 2000 s 71, Sch 7 para 1(8) (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).
56 For the meaning of 'candidate' for these purposes see para 182 note 20 ante.
57 For the meaning of 'parliamentary election' see para 9 ante.
58 For the meaning of 'local government election' see para 10 ante.
59 For the meaning of 'Authority election' see para 10 ante.

60 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (18) in the text recites the prohibition that is contained in reg 104(3) (as added) (see para 182 ante), which refers to the controls on donations contained in the Representation of the People Act 1983 s 71A, Sch 2A (as added) (see para 291 et seq) or the Political Parties, Elections and Referendums Act 2000 Sch 7 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), as the case may be.

61 Ie within the meaning of the Political Parties, Elections Referendums Act 2000 s 24 (as amended) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS).

62 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (19) in the text recites the prohibition that is contained in reg 105(4) (as added) (see para 182 ante).

63 Ie a registered political party other than a minor party within the meaning of the Political Parties, Elections and Referendums Act 2000 s 160(1) (see para 260 note 8 ante).

64 Ie a recognised third party within the meaning of ibid s 85(5) (control of expenditure by third parties in national parliamentary election campaigns: see para 318 ante).

65 Ie a permitted participant within the meaning of ibid s 105(1) (permitted participant for the purpose of referendums: see para 521 ante).

66 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (20) in the text recites the prohibition that is contained in reg 106(3) (as added) (see para 182 ante), which refers to purposes in connection with the campaign in respect of the referendum identified in the declaration made to the Electoral Commission by the participant under the Political Parties, Elections and Referendums Act 2000 s 106 (see para 521 ante) and the controls on donations under Pt IV (ss 50–71) (as amended) (control of donations to registered parties, individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS) or under s 95, Sch 11 (as amended) (control of donations to recognised third parties: see para 330 et seq ante) or under s 119, Sch 15 (as amended) (control of donations to permitted participants: see para 538 et seq ante), as the case may be.

67 Ie a local poll under the Local Government Act 2003 s 116 (see para 559 et seq ante).

68 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (21) in the text recites the prohibition that is contained in reg 107(3) (as added and amended) (see para 182 ante).

69 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (22) in the text recites the prohibition that is contained in reg 107(8) (as added and amended) (see para 182 ante).

70 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (23) in the text recites the prohibition that is contained in reg 108(5) (as added) (see para 182 ante).

71 For the meaning of 'authorised person' see para 184 note 32 ante.

72 Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 115(2) (as added and substituted: see note 12 supra). Head (24) in the text recites the prohibition that is contained in reg 113(5), (6) (as added) (see para 184 ante).

73 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (25) in the text recites the prohibition that is contained in reg 109(3) (as added and amended) (see para 182 ante).

74 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (26) in the text recites the prohibition that is contained in reg 109A(6) (as added) (see para 178 ante).

75 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (27) in the text recites the prohibition that is contained in reg 109A(10) (as added) (see para 178 ante).

76 Ibid reg 115(2) (as added and substituted: see note 12 supra). Head (28) in the text recites the prohibition that is contained in reg 112(4), (5) (as added) (see para 184 ante).

738. Offences as to certain voting applications or declarations. A person who in any declaration or form used in connection with absent voting[1] makes a statement which he knows to be false or who attests an application to vote by post or by proxy[2] when he knows he is not authorised to do so (or when he knows that it contains a statement which is false) is guilty of an offence and is liable on summary conviction to a fine[3].

Any person who makes a declaration of local connection[4] or a service declaration[5] when he is not authorised to do so[6] or (except in the case of a person who is permitted to make such a declaration notwithstanding the fact that by reason of age he is not yet entitled to vote[7]) when he knows that he is subject to a legal incapacity to vote[8], or when he knows that it contains a statement which is false, commits an offence[9]. Any person who attests a service declaration[10] when he knows that he is not authorised to do

so, or when he knows that it contains a false statement as to any required particulars[11], commits an offence[12]. Any person who makes a declaration in connection with an application for an anonymous entry in the register of electors[13] when he knows that he is subject to a legal incapacity to vote[14] (except in the case of a person who is permitted to make such a declaration notwithstanding the fact that by reason of age he is not yet entitled to vote[15]), or when he knows that it contains a statement which is false, is guilty of an offence[16]. Any such offence in relation to such a declaration is punishable on summary conviction by a fine[17].

A person who makes an overseas elector's declaration[18] (or a declaration purporting to be such a declaration) when he knows that he is subject to a legal incapacity to vote at parliamentary elections (age apart), or when he knows that it contains a statement which is false, is guilty of an offence[19]. A person who attests an overseas elector's declaration[20] (or a declaration purporting to be such a declaration) when he knows that he is not authorised to attest such a declaration, or when he knows that it contains a statement which is false, is also guilty of an offence[21]. Either such offence is punishable on summary conviction by a fine[22].

1 Ie for any purposes of, in relation to a parliamentary or local government election, the Representation of the People Act 2000 s 12, Sch 4 (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 8–9, 11–12 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 (as amended) (see para 372 et seq ante).

The Representation of the People Act 2000 Sch 4 (as amended) has been applied and modified in order to make provision for the conduct of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 1 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 1. As to the conduct of local authority referendums generally see para 557 ante.

2 Ie an application made for an absent vote for a particular period or for an indefinite period, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 3 (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 8 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 3 (as amended) (see para 372 ante) or an application made for an absent vote at a particular election, in relation to a parliamentary or local government election, under the Representation of the People Act 2000 Sch 4 para 4 (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 9 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 4 (see para 376 ante).

3 Representation of the People Act 2000 Sch 4 para 8; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 13; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 10, Sch 2 para 8. The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People Act 2000 Sch 4 para 8; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 13; and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 2 para 8. As to the standard scale see para 736 note 3 ante. As to the application and modification of these provisions see note 1 supra.

4 As to declarations of local connection see para 136 ante.

5 As to service declarations see para 140 et seq ante.

6 Ie not authorised, in the case of a declaration of local connection, by the Representation of the People Act 1983 s 7B(1) (as added) (see para 136 ante) or, in the case of a service declaration, by s 15(1) (see para 141 ante).

7 See, in the case of a declaration of local connection, ibid s 7B(1) (as added) (see para 136 ante) and, in the case of a service declaration, s 15(1) (see para 141 ante).

8 Where the declaration is available only for local government elections (as to which see para 112 et seq ante), this means a legal incapacity to vote at local government elections: ibid s 62(2). For the meaning of 'local government election' see para 10 ante; and for the meaning of 'legal incapacity' see para 110 note 8 ante. As to the persons who have a service qualification see para 140 ante; and as to the persons who have a declaration of local connection see para 136 ante. As to the application of s 62 (as amended), as it applies to those who are registered as parliamentary and local government electors, in relation to relevant

citizens of the Union who are registered as European parliamentary electors, subject to any modification and exceptions specified in the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule, see para 117 note 5 ante. For the meaning of 'relevant citizen of the Union' for these purposes see para 117 note 4 ante.

9 Representation of the People Act 1983 s 62(1)(a) (s 62(1) substituted by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 17). As to the application of this provision see note 8 supra.

10 As to the attestation of a service declaration see para 142 ante.

11 Ie required by regulations made under the Representation of the People Act 1983 s 16 (as amended) (see para 142 ante).

12 Ibid s 62(1)(b) (as substituted: see note 9 supra). As to the application of this provision see note 8 supra.

13 Ie a declaration made under ibid s 9B(1)(b) (as added) (see para 170 ante). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

14 Where the declaration is available only for local government elections (as to which see para 112 et seq ante), this means a legal incapacity to vote at local government elections: ibid s 62(2) (amended by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 9(1), (3)). As to the application of this provision see note 8 supra.

15 Ie except as permitted by the Representation of the People Act 1983 (see para 110 et seq ante).

16 Ibid s 62(1A) (added by the Electoral Administration Act 2006 Sch 1 paras 2, 9(1), (2)). As to the application of this provision see note 8 supra.

17 Representation of the People Act 1983 s 62(1) (as substituted: see note 9 supra), s 62(1A) (as added: see note 16 supra). The penalty is a fine not exceeding level 5 on the standard scale: see s 62(1) (as so substituted), s 62(1A) (as so added). As to the application of these provisions see note 8 supra.

18 As to overseas elector's declarations see para 129 et seq ante.

19 Representation of the People Act 1985 s 12(1). As to the application of s 12, with modifications, to citizens and nationals of accession states who are registered as local government electors and European parliamentary electors see the Local and European Parliamentary Elections (Registration of Citizens of Accession States) Regulations 2003, SI 2003/1557, reg 2(1), (6). As to the application, with modifications, of the Representation of the People Act 1985 s 12 in relation to peers who are registered to vote at a European parliamentary election see the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4; and para 116 note 7 ante.

20 As to the attestation of an overseas elector's declaration see para 149 ante.

21 Representation of the People Act 1985 s 12(2). As to the application of this provision see note 19 supra.

22 Ibid s 12(4). The penalty is a fine not exceeding level 5 on the standard scale: see s 12(4). As to the application of this provision see note 19 supra.

739. Offences as to applications or declarations made by a relevant citizen of the Union. A person who makes a statement which he knows to be false either in an application by a relevant citizen of the Union[1] for registration as a European parliamentary elector[2] or in a related declaration[3] is guilty of an offence and liable on summary conviction to a fine[4]; and a person who makes a statement which he knows to be false in the declaration required[5] before a relevant citizen of the Union[6] can be validly nominated[7] as an individual candidate[8] or as a candidate on a registered party's list[9] is guilty of an offence and is also liable on summary conviction to a fine[10].

1 For the meaning of 'relevant citizen of the Union' for these purposes see para 117 note 4 ante.

2 Ie in an application required by the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 6(1) (see para 169 ante).

3 Ie in a declaration required by ibid reg 6(2) (see para 169 ante).

4 Ibid reg 7(1). The penalty is a fine not exceeding level 3 on the standard scale: see reg 7(1). As to the standard scale see para 736 note 3 ante. The provisions of the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (legal proceedings: see para 759 et seq post) relating to the prosecution of offences, as applied by regulations made under the European Parliamentary Elections Act 2002 (see para 388 ante), have effect in relation to such an offence as they have effect in relation to an offence under the Representation of the People Act 1983 as so applied: European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 7(2); and see the Interpretation Act 1978 s 17(2).

5 Ie under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 9(2) (see para 236 ante).

6 For the meaning of 'relevant citizen of the Union' for these purposes see para 159 note 6 ante.

7 As to the nomination of candidates at elections see para 262 et seq ante.

8 For the meaning of 'individual candidate' for these purposes see para 237 note 32 ante.

9 For the meanings of 'list' and 'registered party' in relation to European parliamentary elections see para 237 note 30 ante.

10 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 28(1). The penalty is a fine not exceeding level 3 on the standard scale: see reg 28(1).

740. Breaches of official duty. If any of the following persons is, without reasonable cause, guilty of any act or omission in breach of his official duty, he is liable on summary conviction to a fine[1]: (1) the Clerk of the Crown at a parliamentary election[2] or any member of staff of the National Assembly for Wales at a Welsh Assembly election[3]; (2) any registration officer[4], returning officer[5] or presiding officer[6]; (3) any other person whose duty it is to be responsible after a parliamentary or local government election[7] or a Welsh Assembly election (as the case may be) for the used ballot papers and other documents (including returns and declarations as to expenses)[8]; (4) any official designated by a universal postal service provider[9]; (5) any deputy of a person mentioned in any of heads (1) to (4) above or any person appointed to assist or in the course of his employment assisting[10] a person so mentioned in connection with his official duties[11]; (6) (as from a day to be appointed[12]) a CORE keeper[13].

'Official duty' is to be construed accordingly[14], but it is not to include duties imposed otherwise than by the law relating to parliamentary or local government elections or Welsh Assembly or European parliamentary elections or the registration of parliamentary or local government electors[15]. None of the persons mentioned above is to be liable for breach of his official duty to any penalty at common law, and no action for damages lies in respect of the breach by such a person of his official duty[16]. Where a returning officer for a parliamentary or local government election is guilty of an act or omission in breach of his official duty, but he remedies that act or omission in full by taking steps in accordance with the provision which allows for the correction of procedural errors[17], he is not guilty of an offence of breach of his official duty[18], except in relation to any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full[19].

1 Representation of the People Act 1983 s 63(1) (s 63 substituted by the Representation of the People Act 1985 s 24, Sch 4 para 19); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(1). The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People Act 1983 s 63(1) (as substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(1). As to the standard scale see para 736 note 3 ante.

The Representation of the People Act 1983 s 63 (as substituted and amended) is applied with modifications by the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 13(4), Sch 4, in relation to peers who are registered to vote at a European parliamentary election (see para 116 note 7 ante) and by the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001, SI 2001/1184, reg 9, Schedule, in relation to relevant citizens of the Union who are registered to vote at a European parliamentary election (see para 117 note 5 ante).

2 Representation of the People Act 1983 s 63(3)(a) (as substituted: see note 1 supra). For the meaning of 'parliamentary election' see para 9 ante. 'Clerk of the Crown' means Clerk of the Crown in Chancery: s 202(1). As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.

3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(b). For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

4 As to electoral registration officers see para 154 et seq ante.

5 As to returning officers for parliamentary elections see para 355 et seq ante; as to returning officers for local government elections see para 359 et seq ante; and as to returning officers at Welsh Assembly elections see para 362 et seq ante. In relation to a European parliamentary election, a local returning officer is also specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3)(a). As to the designation of returning officers and local returning officers at European parliamentary elections see para 365 et seq ante.

6 Representation of the People Act 1983 s 63(3)(b) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3)(a). As to the appointment of presiding officers and their clerks see para 398 ante.

7 For the meaning of 'local government election' generally see para 10 ante. The Representation of the People Act 1983 s 63 (as substituted and amended) has effect as if any reference in it to a local government election included a reference to any other election under the Local Government Act 1972: Representation of the People Act 1983 ss 187(2), 203(1) (s 187(2) amended by the Representation of the People Act 1985 s 24, Sch 4 para 64(b)).

8 Representation of the People Act 1983 s 63(3)(c) (as substituted: see note 1 supra); and amended by the Electoral Administration Act 2006 s 41(8)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(c).

The amendment effected by the Electoral Administration Act 2006 s 41(8) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see para 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see para 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4.

9 Representation of the People Act 1983 s 63(3)(d) (as substituted (see note 1 supra); and amended by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, art 3(1), Sch 1 para 57(1), (2)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3)(b). For the meaning of 'universal postal service provider' see paras 417 note 3, 479 note 4 ante.

10 As to local authority staff who may assist at an election see para 355 et seq ante.

11 Representation of the People Act 1983 s 63(3)(e) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3)(c).

12 The Representation of the People Act 1983 s 63(3)(ba) is added by the Electoral Administration Act 2006 s 7 as from a day to be appointed under s 77(2). At the date at which this volume states the law, no such day had been appointed.

13 Representation of the People Act 1983 s 63(3)(ba) (prospectively added: see note 12 supra). For the meaning of 'CORE keeper' see para 185 note 4 ante.

14 In so construing 'official duty', it is clear from the list of persons specified that duties after an election in connection with the retention of documents used at an election fall within the expression. Where there are gross discrepancies in the counting of the votes, the clerks responsible for them might be guilty, in the absence of reasonable cause, of a dereliction of duty and liable for the offence now set out in the Representation of the People Act 1983 s 63 (as substituted and amended): see *McWhirter v Platten* [1970] 1 QB 508 at 516, [1969] 1 All ER 172 at 176, DC, per Lord Parker CJ. As to inspection of the ballot papers for the purposes of prosecution for such an offence see para 849 post.

15 Representation of the People Act 1983 s 63(3) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(3). Certain peers resident outside the United Kingdom may be included in a register for use only at European parliamentary elections: see para 115 ante.

16 Representation of the People Act 1983 s 63(2) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 30(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 25(2). Unlike the provision which the Representation of the People Act 1983 s 63(2) (as substituted) replaced as respects parliamentary elections (i e s 63(2) as originally enacted), it provides no exemption from penalties under any enactment and accordingly the persons listed in the text could be prosecuted for statutory offences done in connection with the election (if any are relevant). The actions at common law in respect of which this provision provides protection were actions for damages against the returning officer: see *Ashby v White* (1704) 2 Ld Raym 938, HL. It is for consideration whether the Representation of the People Act 1983 s 63(2) (as substituted) provides protection in respect of the tort of misfeasance in public office, where there is a deliberate act or omission which is intended to harm the person at whom it is directed: see *Bourgoin SA v Ministry of Agriculture, Fisheries and Food* [1986] QB 716, [1985] 3 All ER 585, CA. In addition, a returning officer at a parliamentary election might be liable to be punished by the House of Commons if he acts corruptly or with partiality: see *Great Grimsby Case* (1803) 1 Peck 59 at 74; *Middlesex Case* (1804) 2 Peck 1 at 28. However, since those cases were decided, the jurisdiction in respect of controverted elections has been transferred from the House of Commons to the courts by the Parliamentary Elections Act 1868. Furthermore, detailed provision as to the conduct of elections is now made by legislation and breach of duty in connection therewith is an offence under the statutory provision set out in the text.

17 Ie under the Electoral Administration Act 2006 s 46(1) (see paras 355 note 23, 359 note 28 ante).

18 Representation of the People Act 1983 s 63(4) (s 63(4), (5) added by the Electoral Administration Act 2006 s 46(6)); Electoral Administration Act 2006 s 46(3).

The amendments effected by the Electoral Administration Act 2006 s 46 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

19 Representation of the People Act 1983 s 63(5) (as added: see note 18 supra). As to the effect of this provision see note 18 supra.

741. Tampering with nomination and ballot papers. A person is guilty of an offence if, at a parliamentary[1] or local government election[2] or Welsh Assembly[3] or European parliamentary election[4]: (1) he fraudulently defaces or fraudulently destroys any nomination paper[5]; (2) he fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or on any postal voting statement (or, in the case of an election that is not a parliamentary or local government election, any declaration of identity) or official envelope used in connection with voting by post[6]; (3) he without due authority supplies any ballot paper to any person[7]; (4) he fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in[8]; (5) he fraudulently takes out of the polling station any ballot paper[9]; (6) he without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election[10]; or (7) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts[11].

If a returning officer[12], a presiding officer or a clerk appointed to assist[13] in taking the poll, counting the votes or assisting at the proceedings in connection with the issue and receipt of postal ballot papers[14] is guilty of one of the offences described above, he is liable on conviction to a penalty[15]; and any other person who is guilty of such an offence is also liable to a penalty[16].

If any person in a poll consequent on a parish or community meeting[18]: (a) fraudulently defaces or fraudulently destroys any ballot paper or the official mark[19]; (b) without due authority supplies a ballot paper to any person[20]; (c) fraudulently puts into a ballot box any paper other than the ballot paper which he is authorised by law to put in[21]; (d) fraudulently takes out of the polling station any ballot paper[22]; or (e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the poll[23], he is liable on conviction to a penalty[24].

1 For the meaning of 'parliamentary election' see para 9 ante.

2 For the meaning of 'local government election' see para 10 ante.

3 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

4 As to European parliamentary elections see para 224 et seq ante.

5 Representation of the People Act 1983 s 65(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(a). At a Welsh Assembly election, the reference in the text is to any individual nomination or party nomination paper: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(a). At a European parliamentary election, the reference is to any nomination paper or to the list of candidates submitted by a registered party: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1). For the meanings of 'list' and 'registered party' for these purposes see para 237 note 30 ante. As to nomination papers see para 262 et seq ante. Forgery of the signatures on a nomination paper might be an offence under the Forgery and Counterfeiting Act 1981 s 1 (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) para 347). The Representation of the People Act 1983 s 65 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

6 Representation of the People Act 1983 s 65(1)(b) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 72, 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(b); and see note 5 supra. As to the manner of voting see para 368 et seq ante; as to ballot papers and the official mark see para 391 et seq ante; and as to the issue of postal voting statements see para 411 ante. Forgery of a ballot paper or of the official mark on a ballot paper might be an offence under the Forgery and Counterfeiting Act 1981 s 1 (see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) para 347). As to the inspection of the ballot papers or counterfoils for the purpose of initiating or maintaining a prosecution for an offence in relation to the ballot papers see para 849 post. As to the inspection of other documents see paras 503–504 ante.

Any amendments effected by the Electoral Administration Act 2006 Sch 1 paras 69, 72, 96 have no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

7 Representation of the People Act 1983 s 65(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(c); and see note 5 supra.

8 Representation of the People Act 1983 s 65(1)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(d); and see note 5 supra.

9 Representation of the People Act 1983 s 65(1)(e); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(e); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(e); and see note 5 supra. As to whether a voter who takes a ballot paper out of a station deciding not to vote commits an offence see *Re Derbyshire, North-Eastern, Case, Holmes v Lee and Cleaver* (1923) 39 TLR 423.

10 Representation of the People Act 1983 s 65(1)(f); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(f); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(f); and see note 5 supra. Breaking a glass vessel containing a noxious fluid over the aperture of a ballot box has been held to be interference with the ballot box since interference with the ballot papers in the ballot box is equivalent to interference with the ballot box: *R v Chapin* (1909) 74 JP 71, 22 Cox CC 10.

11 Representation of the People Act 1983 s 65(1)(g); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(1)(g); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(1)(g); and see note 5 supra.

12 As to returning officers for parliamentary elections see para 355 et seq ante; and as to returning officers for local government elections see para 359 et seq ante. At a Welsh Assembly election, the reference is to a constituency returning officer at a constituency election and to a constituency or regional returning officer at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(2). For the meanings of 'Assembly constituency election' and 'Assembly regional election' in the case of a Welsh Assembly election see para 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see para 18 note 2 ante. At a European parliamentary election, a local returning officer is also specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(3). As to the designation of returning officers and local returning officers at European parliamentary elections see para 365 et seq ante.

13 As to the appointment of presiding officers and their clerks see para 398 ante.

14 As to proceedings in connection with the issue and receipt of postal ballot papers see para 411 et seq ante.

15 Representation of the People Act 1983 s 65(3) (s 65(3), (4) substituted by the Representation of the People Act 1985 s 23, Sch 3 para 2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(3); and see note 5 supra. The penalty on indictment is a fine or imprisonment for a term not exceeding two years or both, and on summary conviction is a fine not exceeding the statutory maximum or imprisonment for a term not exceeding six months or both: see the Representation of the People Act 1983 s 65(3) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(2); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(3). The 'statutory maximum', with reference to a fine or penalty on summary conviction for an offence, is the prescribed sum within the meaning of the Magistrates' Courts Act 1980 s 32 (as amended; prospectively amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1674; MAGISTRATES vol 29(2) (Reissue) para 804. The 'prescribed sum' means £5,000 or such sum as is for the time being substituted in this definition by order under the Magistrates' Courts Act 1980 s 143(1) (as substituted): see s 32(9) (amended by the Criminal

Justice Act 1991 s 17(2)); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1675; MAGISTRATES vol 29(2) (Reissue) para 804.

16 Representation of the People Act 1983 s 65(4) (as substituted: see note 15 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(4); and see note 5 supra. The penalty on summary conviction is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months or both: see the Representation of the People Act 1983 s 65(4) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 31(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 26(4). As to the standard scale see para 736 note 3 ante.

18 As to polls consequent on a parish meeting on a question involving appointment to office see para 207 et seq ante; and as to polls consequent on a parish or community meeting on other questions see para 558 et seq ante.

10 Local Government Act 1972 s 99, Sch 12 paras 22(a), 38(a).

20 Ibid Sch 12 paras 22(b), 38(b).

21 Ibid Sch 12 paras 22(c), 38(c).

22 Ibid Sch 12 paras 22(d), 38(d).

23 Ibid Sch 12 paras 22(e), 38(e).

24 If he is a returning officer or an authorised person appointed to assist in taking the poll or counting the votes, the penalty on conviction on indictment is imprisonment for a term not exceeding two years; in any other case, he is liable on conviction on indictment to imprisonment for a term not exceeding six months or to a fine or to both, or on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum or to both: ibid Sch 12 paras 22(i), (ii), 38(i), (ii); Criminal Law Act 1977 s 32(1); Magistrates' Courts Act 1980 s 32(1). As to the court's power to fine in lieu of or in addition to the power to sentence to imprisonment see CRIMINAL LAW, EVIDENCE AND PROCEDURE. As to the returning officer at a poll consequent on a parish meeting on a question involving appointment to office see para 361 ante; and as to the returning officer at a poll consequent on a parish or community meeting on other questions see para 593 ante.

742. Offence related to the requirement of secrecy. Every returning officer[1], presiding officer or clerk[2], and every candidate[3], election agent[4] or polling agent[5] attending at a polling station[6] (and every representative of the Electoral Commission[7] who is entitled so to attend[8]) must maintain and aid in maintaining the secrecy of voting and must not, except for some purpose authorised by law, communicate to any person[9] before the poll is closed any information as to[10]: (1) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station[11]; (2) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station[12]; or (3) the official mark[13].

If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty[14].

1 As to returning officers for parliamentary elections see para 355 et seq ante; and as to returning officers for local government elections see para 359 et seq ante. At a Welsh Assembly election, the reference is to a constituency returning officer at a constituency election (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(a)) and to a constituency or regional returning officer at a regional election (art 33(1)(b)). For the meanings of 'Assembly election', 'Assembly constituency election' and 'Assembly regional election' in the case of a Welsh Assembly election see para 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see para 18 note 2 ante. At a European parliamentary election, a local returning officer is specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(a). As to the designation of local returning officers at European parliamentary elections see para 365 et seq ante.

2 Representation of the People Act 1983 s 66(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(a)–(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(a). As to the appointment of presiding officers and their clerks see para 398 ante.

The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see para 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). At such a poll any reference to an election agent or the proxy for an elector is to be omitted: r 6(e). The Representation of the People Act 1983 s 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the

Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

3 For the meaning of 'candidate' generally see para 237 ante.

4 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.

5 As to the appointment of polling agents see para 399 ante. In the case of a local authority referendum, the reference in the text is to every polling observer so attending: see the Representation of the People Act 1983 s 66(1)(b) (as applied and modified: see note 2 supra). As to the appointment of polling observers at a referendum see para 591 ante.

6 Ibid s 66(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(b). See note 2 supra.

7 As to the Electoral Commission see para 31 et seq ante.

8 Representation of the People Act 1983 s 66(1)(c) (added by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 82); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(c). For the purposes of the Representation of the People Act 1983 s 66(1)(c) (as added), the reference is to every person attending at a polling station at a parliamentary or local government election or European parliamentary general election or Welsh Assembly election, by virtue of any of the Political Parties, Elections and Referendums Act 2000 ss 6A–6D (as added) (Electoral Commission representatives and accredited observers to attend electoral proceedings and observe working practices: see para 48 ante): see the Representation of the People Act 1983 s 66(1)(c) (as so added).

9 Where a polling agent left a marked copy of the register in the committee room of the candidate by whom he was employed, but there was no evidence that it was seen by anyone while it was in the room, it was held that no offence had been committed: *Stannanought v Hazeldine* (1879) 4 CPD 191. The mere communication by the returning officer of the numbers on the backs of ballot papers given out after the close of the poll so that there might be a record of such papers is not an offence if it does not in fact lead, and is not intended to lead, to any disclosures of the names of voters or of the persons for whom they voted: *Islington, West Division Case* (1901) 5 O'M & H 120 at 126. The admission of the defendant that he did disclose the information is sufficient evidence without showing that the voter in fact voted: *R v Unkles* (1874) IR 8 CL 50.

10 Representation of the People Act 1983 s 66(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1). See note 2 supra. A communication by a polling agent as to the course of the poll will not avoid the election: *Bolton Case* (1874) 2 O'M & H 138 at 141, 143.

11 Representation of the People Act 1983 s 66(1)(i); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(i). See note 2 supra.

12 Representation of the People Act 1983 s 66(1)(ii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(ii). See note 2 supra.

13 Representation of the People Act 1983 s 66(1)(iii); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(1)(iii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(1)(iii). See note 2 supra.

14 Representation of the People Act 1983 s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). See note 2 supra. The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). As to the standard scale see para 736 note 3 ante.

743. Contravention of requirement of secrecy at count and verification of ballot paper accounts. Except at a European parliamentary election[1], every person attending at the counting of the votes[2] must maintain and aid in maintaining the secrecy[3] of voting and must not ascertain or attempt to ascertain at the counting of the votes the number (or, in the case of a parliamentary election, any other unique

identifying mark) on the back of any ballot paper, or communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper[4]. If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty[5].

At a European parliamentary election, every person attending at the verification of the ballot paper accounts or at the counting of the votes must maintain and aid in maintaining the secrecy of voting and must not ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper and must not communicate any information obtained at the verification of the ballot paper accounts or at the counting of the votes as to the way in which any vote is given on any particular ballot paper[6]. No person attending at the verification of the ballot paper accounts is to express to any person an opinion based on information obtained at that verification as to the likely result of the election[7]. If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty[8].

1 At a European parliamentary election, the verification of the ballot paper accounts takes place separately from the counting of the votes: see para 468 ante.

2 As to attendance at the counting of the votes at a parliamentary election see para 431 et seq ante; and as to attendance at the counting of the votes at National Assembly for Wales constituency and regional elections see para 460 et seq ante.

3 As to notification of the requirement of secrecy see para 390 ante.

4 Representation of the People Act 1983 s 66(2) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 86(a), 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(2). As to security measures associated with the ballot paper see para 392 ante.

The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see para 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). At such a poll, the reference to the giving of votes is to the manner in which any vote is given: r 6(e). At a Welsh Assembly election, the reference is to how any vote is given on any particular ballot paper: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(2). In relation to an election of the London members of the London Assembly at an ordinary election, the reference to the candidate is to the candidate for whom or the registered political party towards the return of whose candidates any vote is given (Representation of the People Act 1983 s 66(7) (s 66(7), (8) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 11)); and any reference to the return of a registered political party's candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election (Representation of the People Act 1983 s 66(8) (as so added)). Section 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

The amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 86, 96 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6). See note 4 supra. The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6). As to the standard scale see para 736 note 3 ante.

6 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(2).

7 Ibid reg 29(3).

8 Ibid reg 29(7). The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see reg 29(7).

744. Interference with voter. No person is to: (1) interfere with or attempt to interfere with a voter when recording his vote[1]; (2) otherwise obtain or attempt to

obtain in a polling station information as to the candidate for whom, or the manner in which, a voter in that station is about to vote or has voted[2]; (3) communicate at any time to any person any information obtained in a polling station as to the candidate for whom, or the manner in which, a voter in that station is about to vote or has voted, or as to the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of the ballot paper given to a voter at that station[3]; or (4) directly or indirectly induce a voter to display his ballot paper after he has marked it, so as to make known to any person the name of the candidate for whom, or the manner in which, he has or has not voted[4].

If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty[5].

1 Representation of the People Act 1983 s 66(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4)(a). The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see para 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). The Representation of the People Act 1983 s 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Representation of the People Act 1983 s 66(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4)(b). At a poll consequent on a parish or community meeting (see note 1 supra), the reference to the giving of votes is to the manner in which any vote is given: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(e). At a Welsh Assembly election, the reference is to how a voter in that station is about to vote or has voted: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3). At a European parliamentary election, the reference is to the way in which a voter in that station is about to vote or has voted: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4). In relation to an election of the London members of the London Assembly at an ordinary election, the reference to the candidate is to the candidate for whom or the registered political party towards the return of whose candidates any vote is given (Representation of the People Act 1983 s 66(7) (s 66(7), (8) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 11)); and any reference to the return of a registered political party's candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election (Representation of the People Act 1983 s 66(8) (as so added)).

3 Ibid s 66(3)(c) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 86(b), 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4)(c). See notes 1, 2 supra. As to security measures associated with the ballot paper see para 392 ante.

The amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 86, 96 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

4 Representation of the People Act 1983 s 66(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(3)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(4)(d). See notes 1, 2 supra.

5 Representation of the People Act 1983 s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). See note 1 supra. The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). As to the standard scale see para 736 note 3 ante.

745. Contravention of requirement of secrecy at issue or receipt of postal ballot papers. Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post[1] must maintain and aid in maintaining the secrecy of the voting and must not[2]: (1) except for some purpose authorised by law communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark[3]; (2) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of the ballot paper sent to any person[4]; (3) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of any ballot paper[5]; or (4) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings[6].

If a person acts in contravention of these requirements, he is liable on summary conviction to a penalty[7].

1 As to proceedings in connection with the issue and receipt of postal ballot papers see para 411 et seq ante.

2 Representation of the People Act 1983 s 66(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5). The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see para 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). The Representation of the People Act 1983 s 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

3 Representation of the People Act 1983 s 66(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(a). See note 2 supra.

4 Representation of the People Act 1983 s 66(4)(b) (s 66(4)(b), (c) amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 86(c), 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(b). See note 2 supra. As to security measures associated with the ballot paper see para 392 ante.

The amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 86, 96 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

5 Representation of the People Act 1983 s 66(4)(c) (as amended: see note 4 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(c). See note 2 supra.

6 Representation of the People Act 1983 s 66(4)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(d); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(d). At a poll consequent on a parish or community meeting (see note 2 supra), the reference to the giving of votes is to the manner in which any vote is given: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(e). At a Welsh Assembly election, the reference is to how any vote is given on any particular ballot paper: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(4)(d). At a European parliamentary election, the reference is to the way in which any vote is given in any particular ballot paper: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(5)(d). In relation to an election of the London members of the London Assembly at an ordinary election, the reference to the candidate is to the candidate for whom or the registered political party towards the return of whose candidates any vote is given (Representation of the People Act 1983 s 66(7) (s 66(7), (8) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 11)); and any reference to the return of a registered political party's candidates is a reference to

the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election (Representation of the People Act 1983 s 66(8) (as so added)).

7 Ibid s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). See note 2 supra. The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). As to the standard scale see para 736 note 3 ante.

746. Contravention of requirement of secrecy for persons having undertaken to assist a voter with disabilities. No person having undertaken to assist a voter with disabilities (or a blind voter) to vote[1] may communicate at any time to any person any information as to the candidate for whom that voter intends to vote or has voted, or as to the number (or, in the case of a parliamentary election, any other unique identifying mark) on the back of the ballot paper given for the use of that voter[2].

If a person acts in contravention of these requirements he is liable on summary conviction to a penalty[3].

1 See para 407 ante.

2 Representation of the People Act 1983 s 66(5) (amended by the Electoral Administration Act 2006 s 47, Sch 1 paras 69, 86(d), 96); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(6). As to security measures associated with the ballot paper see para 392 ante.

The Representation of the People Act 1983 s 66 (as amended) applies at a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended): see para 388 ante. See also the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(a). At such a poll, the reference to the giving of votes is to the manner in which any vote is given: r 6(e). At a Welsh Assembly election, the reference is to information as to how that voter intends to vote or has voted: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(5). At a European parliamentary election, the reference is to information as to the way in which that voter intends to vote or has voted: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(6). In relation to an election of the London members of the London Assembly at an ordinary election, the reference to the candidate is to the candidate for whom or the registered political party towards the return of whose candidates any vote is given (Representation of the People Act 1983 s 66(7) (s 66(7), (8) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 11)); and any reference to the return of a registered political party's candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election (Representation of the People Act 1983 s 66(8) (as so added)). Section 66 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

The amendment effected by the Electoral Administration Act 2006 Sch 1 paras 69, 86, 96 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

3 Representation of the People Act 1983 s 66(6) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). See note 2 supra. The penalty is fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66(6) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 33(6); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 29(7). As to the standard scale see para 736 note 3 ante.

747. Contravention of prohibition on publication of exit polls. No person, at any parliamentary[1] or local government election[2] or Welsh Assembly[3] or European

parliamentary election[4], is to publish[5] before the poll is closed[6] either any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted[7] or any forecast[8] as to the result of the election[9] which is (or might reasonably be taken to be) based on information so given[10].

If a person acts in contravention of this prohibition, he is liable on summary conviction to a penalty[11].

1 For the meaning of 'parliamentary election' see para 9 ante.
2 For the meaning of 'local government election' see para 10 ante.
3 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
4 As to European parliamentary elections see para 224 et seq ante.
5 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means: Representation of the People Act 1983 s 66A(4) (s 66A added by the Representation of the People Act 2000 s 15(1), Sch 6 paras 3, 6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(3). The Representation of the People Act 1983 s 66A (as added) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
6 Representation of the People Act 1983 s 66A(1), (2) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(1). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra. At a European parliamentary election, the reference is to the 'close of the poll' which means, in the case of a general election of members of the European Parliament ('MEPs'), the close of the polling in the member state whose electors are the last to vote in the election: reg 30(3). See further para 229 ante.
7 Representation of the People Act 1983 s 66A(1)(a) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(1)(a). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.
8 For these purposes, 'forecast' includes estimate: Representation of the People Act 1983 s 66A(4) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(3). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.
9 For these purposes, any reference to the result of an election is a reference to the result of the election either as a whole or so far as any particular candidate or candidates at the election is or are concerned: Representation of the People Act 1983 s 66A(4) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(3). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.
10 Representation of the People Act 1983 s 66A(1)(b) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(1)(b). As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.
11 Representation of the People Act 1983 s 66A(3) (as added: see note 5 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(2). The penalty is a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months: see the Representation of the People Act 1983 s 66A(3) (as so added); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 34(2); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 30(2). As to the standard scale see para 736 note 3 ante. As to the application and modification of these provisions for the purposes of a local authority referendum see note 5 supra.

748. Offences regarding access to or control of election or referendum documents. A person is guilty of an offence if he: (1) fails to comply with any conditions imposed in pursuance of regulations under the provisions which govern the

retention and public inspection of documents relating either to a parliamentary election[1] or to another relevant election or referendum[2]; or (2) is an appropriate supervisor of a person (the 'supervised person')[3] who fails to comply with such a condition and he failed to take appropriate steps[4]. A supervised person who has an appropriate supervisor and who has complied with all the requirements imposed on him by his appropriate supervisor is not guilty of such an offence[5]; and a person who is not a supervised person or an appropriate supervisor is not guilty of such an offence if he takes all reasonable steps to ensure that he complies with the conditions[6].

A person who is guilty of such an offence is liable on summary conviction to a penalty[7].

1 Ie the provisions set out in the Representation of the People Act 1983 s 23(1), Sch 1 r 57 (as amended) (see para 503 ante). For the meaning of 'parliamentary election' see para 9 ante.

2 Electoral Administration Act 2006 s 43(1)(a); Representation of the People Act 1983 s 66B(1)(a) (s 66B added by the Electoral Administration Act 2006 s 41(9)). The reference in the text to the provisions which govern the retention and public inspection of documents relating to another relevant election or referendum is to the Electoral Administration Act 2006 s 42 (see paras 504–507 ante) where the reference to another relevant election is to a local government election or a Welsh Assembly election or to a European Parliamentary election.

Section 43 has effect in relation to: (1) any local government election, as defined by the Representation of the People Act 1983 s 203(1) (as amended) (see para 10 ante) other than an Authority election (see para 10 ante); (2) any referendum held under, or by virtue of regulations or an order made under, any provision of the Local Government Act 2000 Pt II (ss 10–48) (as amended) (see para 557 et seq ante); (3) any election for the return of an elected mayor held in accordance with regulations made under the Local Government Act 2000 Pt II (as amended) (see para 205 et seq ante); and (4) any election to the National Assembly for Wales under the Government of Wales Act 1998 Pt I (ss 1–20) (prospectively repealed) or the Government of Wales Act 2006 Pt 1 (ss 1–44) (the provisions of which are to come into force immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3: see para 12 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 3, Sch 1 para 15(a). However, the Electoral Administration Act 2006 s 43 has no effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. As to the retention and inspection of documents relating to European parliamentary elections see para 507 ante.

The Representation of the People Act 1983 s 66B (as added) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see para 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see para 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.

3 For these purposes, an appropriate supervisor is a person who is a director of a company or who is concerned in the management of an organisation in which the supervised person is employed or under whose direction or control the supervised person is: Electoral Administration Act 2006 s 43(4)(a); Representation of the People Act 1983 s 66B(4)(a) (as added: see note 2 supra). As to the effect of these provisions see note 2 supra.

4 Electoral Administration Act 2006 s 43(1)(b); Representation of the People Act 1983 s 66B(1)(b) (as added: see note 2 supra). For these purposes, appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions: Electoral Administration Act 2006 s 43(4)(b); Representation of the People Act 1983 s 66B(4)(b) (as so added). As to the effect of these provisions see note 2 supra.

5 Electoral Administration Act 2006 s 43(2); Representation of the People Act 1983 s 66B(2) (as added: see note 2 supra). As to the effect of these provisions see note 2 supra.

6 Electoral Administration Act 2006 s 43(3); Representation of the People Act 1983 s 66B(3) (as added: see note 2 supra). As to the effect of these provisions see note 2 supra.

7 Electoral Administration Act 2006 s 43(5); Representation of the People Act 1983 s 66B(5) (as added: see note 2 supra). The penalty is a fine not exceeding level 5 on the standard scale: see the Electoral Administration Act 2006 s 43(5); and the Representation of the People Act 1983 s 66B(5) (as so added). As to the standard scale see para 736 note 3 ante. As to the effect of these provisions see note 2 supra.

749. Contravention of prohibition on officials acting as candidates' agents. If any returning officer at a parliamentary election[1], local government election[2], Welsh Assembly election[3] or European parliamentary election[4] or any officer or clerk appointed[5] under the parliamentary elections rules[6] or rules for the conduct of local elections[7] or rules for the conduct of Welsh Assembly elections[8] or the European parliamentary elections rules[9], as the case may be, or any partner or clerk of any such person, acts as an agent of a candidate[10] in the conduct or management of the election[11], he is guilty of an offence[12]. This does not, however, prevent a candidate from acting as his own election agent[13].

A person guilty of such an offence is liable on summary conviction to a penalty[14].

1 As to returning officers for parliamentary elections see para 355 et seq ante. For the meaning of 'parliamentary election' see para 9 ante.

2 As to returning officers for local government elections (including elections for the return of a local authority mayor) see para 359 et seq ante. For the meaning of 'local government election' see para 10 ante. For these purposes, in relation to a poll consequent on a parish or community meeting, the returning officer at an election under the local government Act is also specified and references to an election under the local government Act are deemed to include a reference to a poll consequent on a parish or community meeting: Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(d), (g). See also the Representation of the People Act 1983 s 187(1) (as amended); the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended); and para 388 ante. As to the returning officer at a poll consequent on a parish meeting on a question involving appointment to office see para 361 ante; and as to the returning officer at a poll consequent on a parish or community meeting on any other question see para 593 ante.

3 At a Welsh Assembly election, the reference is to any constituency or regional returning officer at a constituency election and to any constituency or regional returning officer at a regional election: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1). For the meanings of 'Assembly election', 'Assembly constituency election' and 'Assembly regional election' in the case of a Welsh Assembly election see para 3 note 1 ante; and for the meanings of 'constituency returning officer' and 'regional returning officer' see para 18 note 2 ante.

4 At a European parliamentary election, any returning officer or local returning officer is specified: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1). As to the designation of returning officers and local returning officers at European parliamentary elections see para 365 et seq ante. As to European parliamentary elections see para 224 et seq ante.

5 As to the appointment of such officers and clerks see para 398 ante.

6 As to the parliamentary elections rules see para 388 ante.

7 Ie the rules under the Representation of the People Act 1983 s 36 (as amended) (see para 388 ante).

8 Ie the rules in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 (as amended) (see para 388 ante).

9 For the meaning of 'European parliamentary elections rules' see para 388 ante.

10 For the meaning of 'candidate' generally see para 237 ante. At a Welsh Assembly election, the reference in the text is to a constituency candidate (at a constituency election) or to an individual candidate or a group of party list candidates (at a regional election): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1). For the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see para 237 note 23 ante. At a European parliamentary election, the reference is to a registered party which has submitted a list, a candidate on that list or an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1). For the meanings of 'list' and 'registered party' in relation to European parliamentary elections see para 237 note 30 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante. As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.

11 It is not necessary that the agent should be an agent for the management of the whole election; it is sufficient if he is agent for part of the election. He must be not simply an agent who might be employed to such an extent as might make the candidate answerable for corrupt or illegal practices committed by him, but employed in the way of managing a portion of the election: *North Norfolk Case, Burton's Case* (1869) 1 O'M & H 236 at 239.

12 Representation of the People Act 1983 s 99(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1).

13 Representation of the People Act 1983 s 99(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1). At a Welsh Assembly election, the prohibition set out in the text does not prevent an individual candidate from acting as his own election agent or a party list candidate from acting as election agent for the candidates on the list: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(1). At a European parliamentary election, the prohibition set out in the text does not prevent an individual candidate from acting as his own election agent: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(1).

14 Representation of the People Act 1983 s 99(2) (substituted by the Representation of the People Act 1985 s 23, Sch 3 para 4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(2). The penalty is a fine not exceeding level 4 on the standard scale: see the Representation of the People Act 1983 s 99(2) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 70(2); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 69(2). As to the standard scale see para 736 note 3 ante.

750. Illegal canvassing by police officers. No member of a police force[1] may by word, message, writing or in any other manner endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy, at any parliamentary election[2] for a parliamentary constituency[3], at any local government election[4] for any electoral area[5], at any constituency election[6] for a Welsh Assembly constituency[7], at any regional election[8] for a Welsh Assembly electoral region[9] or at any European parliamentary election[10] for a European parliamentary electoral region[11], wholly or partly within the police area[12]. A person acting in contravention of this provision is liable on summary conviction to a penalty[13]. A member of a force, however, is not to be subjected to any penalty for anything done in the discharge of his duty as a member of the force[14].

1 Ie within the meaning of the Police Act 1996 s 101(1): see POLICE vol 36(1) (Reissue) para 313 et seq.

2 For the meaning of 'parliamentary election' see para 9 ante.

3 For the meaning of 'parliamentary constituency' see para 9 ante.

4 For the meaning of 'local government election' see para 10 ante.

5 For the meaning of 'electoral area' see para 10 ante.

6 For the meaning of 'constituency election' in the context of Welsh Assembly elections see para 3 note 1 ante.

7 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.

8 For the meaning of 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.

9 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.

10 As to European parliamentary elections see para 224 et seq ante.

11 As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante.

12 Representation of the People Act 1983 s 100(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 71(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 70(1). 'Police area' means a police area within the meaning of the Police Act 1996 s 101(1): see POLICE vol 36(1) (Reissue) para 313 et seq.

The Representation of the People Act 1983 s 100 (as amended) applies to a poll consequent on a parish or community meeting by virtue of s 187(1) (as amended) and the Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (as amended) (see para 388 ante). The Representation of the People Act 1983 s 100 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

13 Representation of the People Act 1983 s 100(2) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 5); National Assembly for Wales (Representation of the People) Order 2003,

SI 2003/284, art 71(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 70(2). See note 12 supra. The penalty is a fine not exceeding level 3 on the standard scale: see the Representation of the People Act 1983 s 100(2) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 71(2); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 70(2). As to the standard scale see para 736 note 3 ante.

14 Representation of the People Act 1983 s 100(2) (as amended: see note 13 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 71(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 70(2). See note 12 supra.

751. Failure to display details on election publications. In relation to a parliamentary or local government election[1], no material which can reasonably be regarded as intended to promote or procure[2] the election of a candidate[3] (whether or not it can be so regarded as intended to achieve any other purpose as well)[4] may be published[5] unless the following requirements are complied with[6]:

(1) where the material is a document consisting (or consisting principally) of a single side of printed matter, the names and addresses of the printer[7] of the document[8], of the promoter[9] of the material[10] and of any person on behalf of whom the material is being published (and who is not the promoter)[11] (the 'relevant details') must appear on the face of the document[12];

(2) where the material is a printed document other than one to which head (1) above applies, the names and addresses of the printer of the document[13], of the promoter of the material[14] and of any person on behalf of whom the material is being published (and who is not the promoter)[15] (the 'relevant details') must appear either on the first or the last page of the document[16];

(3) where the material is an advertisement contained in a newspaper or periodical, the name and address of the printer of the newspaper or periodical must appear either on its first or last page[17] and there must be included in the advertisement the names and addresses of the promoter of the material[18] and of any person on behalf of whom the material is being published (and who is not the promoter)[19];

(4) in the case of any other material, the name and address of the promoter of the material[20] and the name and address of any person on behalf of whom the material is being published (and who is not the promoter)[21] must be included in the material in accordance with requirements imposed by regulations which may be made for these purposes by the Secretary of State after consulting the Electoral Commission[22].

Where any material is published in contravention of these requirements, the promoter of the material and any other person by whom the material is so published (and, in the case of material falling within heads (1) to (3) above, the printer of the material) are guilty of an offence and liable on summary conviction to a penalty[23]. It is a defence for a person charged with such an offence to prove that the contravention of the requirements arose from circumstances beyond his control and that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise[24]. A candidate or his election agent who would be guilty of such an offence is instead guilty of an illegal practice[25].

In relation to a Welsh Assembly constituency or regional election[26] or at a European parliamentary election[27], a person must not print or publish, or cause to be printed or published[28], any bill, placard or poster[29] having reference to an election or any printed document[30] distributed for the purpose of promoting or procuring the election of a candidate[31] (or, in the case of a Welsh Assembly election, of promoting or procuring a particular result at the election), or post or cause to be posted any such bill, placard or poster, or distribute or cause to be distributed any printed document for that purpose, unless the bill, placard, poster or document bears on its face the name and address of the printer[32] and publisher[33]. Any candidate or election agent[34] who acts in contravention of

this provision is guilty of an illegal practice[35] but any other person who contravenes it is liable on summary conviction to a penalty[36].

1 Ie a parliamentary election, an Authority election or an election under the local government Act: see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante. For the meaning of 'parliamentary election' see para 9 ante. For the meaning of 'Authority election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante.

2 As to the meaning of 'promoting or procuring' see para 277 note 2 ante.

3 For the meaning of 'candidate' generally see para 237 ante.

4 Representation of the People Act 1983 s 110(1) (s 110 substituted by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 14). For the purpose of determining whether any material is material such as is mentioned in the Representation of the People Act 1983 s 110(1) (as substituted), it is immaterial that it does not expressly mention the name of any candidate: s 110(14) (as so substituted).

The substitution made by the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 14 has no effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007, and in relation to any such election the Election Publications Act 2001 s 1(1), (2)(a) continues to have effect: see the Political Parties, Elections and Referendums Act 2000 (Commencement No 3 and Transitional Provisions) Order 2006, SI 2006/3416, arts 3(b), 4, 5. The Election Publications Act 2001 continued the Representation of the People Act 1983 s 110 (as amended) in the form in which it had effect immediately before the day originally appointed for the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 14 to come into effect, i e 16 February 2001 (the 'commencement date': see the Political Parties, Elections and Referendums Act 2000 (Commencement No 1 and Transitional Provisions) Order 2001, SI 2001/222, art 2, Sch 1 Pt I). See further the Election Publications Act 2001 ss 1–3. As to the case law which attached to the previous form of wording of the Representation of the People Act 1983 s 110 (as amended) see notes 26–36 infra. Section 110 (as amended) was applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. As to the conduct of referendums see para 557 et seq ante.

5 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means: Representation of the People Act 1983 s 110(13) (as substituted: see note 4 supra).

6 Ibid s 110(2) (as substituted: see note 4 supra).

7 For these purposes, 'print' means print by whatever means; and 'printer' must be construed accordingly: ibid s 110(13) (as substituted: see note 4 supra).

8 Ibid s 110(2)(a), (3)(a), (4) (as substituted: see note 4 supra).

9 For these purposes, the 'promoter', in relation to any material which can reasonably be regarded as intended to promote or procure the election of a candidate at an election (whether or not it can be so regarded as intended to achieve any other purpose as well), means the person causing the material to be published: ibid s 110(13) (as substituted: see note 4 supra).

10 Ibid s 110(2)(a), (3)(b), (4) (as substituted: see note 4 supra).

11 Ibid s 110(2)(a), (3)(c), (4) (as substituted: see note 4 supra).

12 Ibid s 110(2)(a), (4) (as substituted: see note 4 supra).

13 Ibid s 110(2)(a), (3)(a), (5) (as substituted: see note 4 supra).

14 Ibid s 110(2)(a), (3)(b), (5) (as substituted: see note 4 supra).

15 Ibid s 110(2)(a), (3)(c), (5) (as substituted: see note 4 supra).

16 Ibid s 110(2)(a), (5) (as substituted: see note 4 supra).

17 Ibid s 110(2)(a), (6)(a) (as substituted: see note 4 supra).

18 Ibid s 110(2)(a), (3)(b), (6)(b) (as substituted: see note 4 supra).

19 Ibid s 110(2)(a), (3)(c), (6)(b) (as substituted: see note 4 supra).

20 Ibid s 110(2)(b), (7)(a) (as substituted: see note 4 supra).

21 Ibid s 110(2)(b), (7)(b) (as substituted: see note 4 supra).

22 Ibid s 110(2)(b), (7) (as substituted: see note 4 supra). Such regulations may in particular specify: (1) the manner and form in which such details must be included in any such material for the purpose of complying with any such requirement (s 110(8)(a) (as so substituted)); (2) circumstances in which any such requirement does not have to be complied with by a person of any description specified in the regulations or in which a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under s 110 (as substituted) (see the text and note 25 infra) by that person or by a person of any such description (s 110(8)(b) (as so substituted)); (3) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the

case may be) published by a person of any description so specified (s 110(8)(c) (as so substituted)). At the date at which this volume states the law, no such regulations had been made. As to the Secretary of State see para 2 ante. As to the Electoral Commission see para 31 et seq ante.

23 Ibid s 110(9), (10) (as substituted: see note 4 supra). The penalty is a fine not exceeding level 5 on the standard scale: see s 110(9), (10) (as so substituted). As to the standard scale see para 736 note 3 ante. Liability for an offence which arises out of the requirement set out in head (4) in the text is subject to regulations made by virtue of s 110(8)(b) (as substituted) (see note 22 supra).

24 Ibid s 110(11) (as substituted: see note 4 supra). See *DPP v Edwards* [2002] EWHC 636 (Admin), [2002] All ER (D) 314 (Mar) (as it stood at the time of the offence, the Representation of the People Act 1983 s 110 (as amended) was an absolute offence and so it could not be contended that the omission of details from election leaflets had been inadvertent and that the defendant had taken immediate steps to rectify the situation).

25 See the Representation of the People Act 1983 s 110(12) (as substituted); and para 706 ante. As to the appointment of an election agent for parliamentary and local government elections see para 238 ante. As to the consequences of illegal practices see para 886 et seq post.

26 For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.

27 As to European parliamentary elections see para 224 et seq ante. In relation to a European parliamentary election, where any act or omission would be lawful by reason of the act being done in compliance with, or the omission being made in reliance on, any provisions of the Representation of the People Act 1983 s 110 (as substituted) if it were substituted for the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(1)–(3) (see the text and notes 28–36 infra) with the modification that for references to 'candidate' there were substituted references to 'individual candidate or a registered party', the act or omission is deemed to be lawful: reg 74(4)–(6).

28 Where a candidate's brother gave the instructions for the printing of an address, not bearing the printer's name and address, to be done for the candidate, and the cost was debited to the candidate but not paid by him, it was held that the candidate had not been proved to have printed or caused to be printed the address, even though the document purported to be signed by him: *Bettesworth v Allingham* (1885) 16 QBD 44, DC.

29 'Bill' is a word of very wide application: *Barrow-in-Furness Case* (1886) 4 O'M & H 76. A circular on paper of notepaper size to be sent by post or by hand to voters has been held not to be a bill, placard or poster: *Re Essex County Councillors, Barstow Division, Election* (1888) 5 TLR 159, DC; *Re Shrewsbury County Councillors' Election* (1888) 5 TLR 160, DC; *Re East Suffolk and Eye Borough County Councillors' Election* (1888) 5 TLR 170, DC; *Cheshire, Knutsford Division Case* (1888) 5 TLR 170: *Re Election of Common Councilmen for the Ward of Farringdon Without in the City of London* (1925) 161 LT Jo 26, DC; see also *Cumberland, Cockermouth Division Case* (1901) 5 O'M & H 155; cf *Alcott v Emden* (1904) 68 JP 434, DC (where a circular headed with the complainant's name and the words 'Shall he be our new Mayor' and sent to the complainant, the town clerk and four councillors in August 1903, it being known that the complainant intended to stand as candidate for that post at the next election on the following 9 November, was held to have reference to the election and to be a bill). Circulars will, however, be 'documents': see note 30 infra. Postcards reading 'You did not forget me a year ago. I shall not forget you' were held not to be bills, placards or posters: *Oxford Borough Case* (1924) 7 O'M & H 49 at 84. A poster is something that is stuck up: *Alcott v Emden* (1904) 68 JP 434, DC. Official poll cards do not appear to fall within this provision, but official notices of the election may come within it: see also note 33 infra.

30 A duplicated personal letter is a 'document': *Re Shipston-on-Stour RDC Election* (1953) Times, 9 June; *Re Liverpool City Council Election* (1964) Times, 16 May, DC. See also *Alcott v Emden* (1904) 68 JP 434, DC (circular); *Oxford Borough Case* (1924) 7 O'M & H 49 at 73, 93 (document printed before the election without any intention of using it for election purposes, in fact used for propaganda purposes in the election).

31 At a European parliamentary election, the reference is to the election of a registered party or an individual candidate: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 75(1). For the meaning of 'registered party' in relation to European parliamentary elections see para 237 note 30 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

32 Any process for multiplying copies of a document, other than copying it by hand, is deemed to be printing; and 'printer' is to be construed accordingly: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(2). See also *Re Shipston-on-Stour RDC Election* (1953) Times, 9 June (a duplicated personal letter to electors).

33 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(1). It has been argued that by the 'custom and comity of the printing trade' the name of a printer appearing on a placard means that he is also the publisher: *Re County Councillors' Elections* (1889) 5 TLR 195, DC. However, a distinct

statement as to who is the publisher as well as to who is the printer may be required: see *Re County Councillors' Elections* supra; *Ex p Jessel* (1910) Times, 21 January; *Re Berry* [1978] Crim LR 357 (name of printer and publisher not on election leaflets). The returning officer would presumably be the publisher of official notices.

34 As to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.

35 See, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(3); and para 706 ante.

36 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(3); and see note 33 supra. The penalty for such a person is a fine not exceeding level 5 on the standard scale: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 75(3); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 74(3). It would appear that such a person cannot claim relief: *Re County Councillors' Elections, De Wette's Case* (1889) 5 TLR 173, DC: and see para 696 ante.

752. Failure to display details on election material published by third parties in national election campaigns. No election material[1] may be published[2] unless the following requirements are complied with[3]:

(1) where the material is a document consisting (or consisting principally) of a single side of printed matter, the names and addresses of the printer[4] of the document[5], of the promoter[6] of the material[7] and of any person on behalf of whom the material is being published (and who is not the promoter)[8] (the 'relevant details') must appear on the face of the document[9];

(2) where the material is a printed document other than one to which head (1) above applies, the names and addresses of the printer of the document[10], of the promoter of the material[11] and of any person on behalf of whom the material is being published (and who is not the promoter)[12] (the 'relevant details') must appear either on the first or the last page of the document[13];

(3) where the material is an advertisement contained in a newspaper or periodical, the name and address of the printer of the newspaper or periodical must appear either on its first or last page[14] and there must be included in the advertisement the names and addresses of the promoter of the material[15] and of any person on behalf of whom the material is being published (and who is not the promoter)[16];

(4) in the case of any other material, the name and address of the promoter of the material[17] and the name and address of any person on behalf of whom the material is being published (and who is not the promoter)[18] must be included in the material in accordance with requirements imposed by regulations which may be made for these purposes by the Secretary of State after consulting the Electoral Commission[19].

Where any material is published in contravention of these requirements, the promoter of the material and any other person by whom the material is so published (and, in the case of material falling within heads (1) to (3) above, the printer of the material) are guilty of an offence[20] and liable on summary conviction to a penalty[21]. It is a defence for a person charged with such an offence to prove that the contravention of the requirements arose from circumstances beyond his control and that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise[22].

1 For these purposes, 'election material' has the meaning given by the Political Parties, Elections and Referendums Act 2000 s 85(3) (controlled expenditure by third parties in national election campaigns: see para 318 note 4 ante): s 143(11).

The Political Parties, Elections and Referendums Act 2000 s 143 (as amended) has no effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007, and in relation to any such election the Election Publications

Act 2001 s 1(1), (2)(a) continues to have effect: see the Political Parties, Elections and Referendums Act 2000 (Commencement No 3 and Transitional Provisions) Order 2006, SI 2006/3416, arts 3(a), 4, 5. Under the Election Publications Act 2001 the Political Parties, Elections and Referendums Act 2000 s 143 (as amended) was deemed not to have come into force on the day originally appointed, i e 16 February 2001 (the 'commencement date': see the Political Parties, Elections and Referendums Act 2000 (Commencement No 1 and Transitional Provisions) Order 2001, SI 2001/222, art 2, Sch 1 Pt I). See further the Election Publications Act 2001 ss 1–3.

2 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means: Political Parties, Elections and Referendums Act 2000 s 143(11). See note 1 supra.

3 Ibid s 143(1). See note 1 supra.

4 For these purposes, 'print' means print by whatever means; and 'printer' must be construed accordingly: ibid s 143(11). See note 1 supra.

5 Ibid s 143(1)(a), (2)(a), (3). See note 1 supra.

6 For these purposes, the 'promoter', in relation to any election material, means the person causing the material to be published: ibid s 143(11). See note 1 supra.

7 Ibid s 143(1)(a), (2)(b), (3). See note 1 supra.

8 Ibid s 143(1)(a), (2)(c), (3). See note 1 supra. For the purposes of s 143(2)(c), election material which can be reasonably regarded as promoting, procuring or enhancing the electoral success or standing of two or more candidates standing in the name of a party or included in a list of candidates submitted by the party in connection with the election is not to be regarded as being published on behalf of a candidate merely because it can be regarded as promoting, procuring or enhancing his electoral success or standing, but may be regarded as being published on behalf of the party: s 143(2A), (2B) (added by the Electoral Administration Act 2006 s 66(2)). Any amendment effected by the Electoral Administration Act 2006 s 66(2) has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Political Parties, Elections and Referendums Act 2000 s 143(1)(a), (3). See note 1 supra.

10 Ibid s 143(1)(a), (2)(a), (4). See note 1 supra.

11 Ibid s 143(1)(a), (2)(b), (4). See note 1 supra.

12 Ibid s 143(1)(a), (2)(c), (4). See notes 1, 8 supra.

13 Ibid s 143(1)(a), (4). See note 1 supra.

14 Ibid s 143(1)(a), (5)(a). See note 1 supra.

15 Ibid s 143(1)(a), (2)(b), (5)(b). See note 1 supra.

16 Ibid s 143(1)(a), (2)(c), (5)(b). See notes 1, 8 supra.

17 Ibid s 143(1)(b), (6)(a). See note 1 supra.

18 Ibid s 143(1)(b), (6)(b). See note 1 supra.

19 Ibid ss 143(1)(b), (6), 160(1). Such regulations may in particular specify: (1) the manner and form in which such details must be included in any such material for the purpose of complying with any such requirement (s 143(7)(a)); (2) circumstances in which any such requirement does not have to be complied with by a person of any description specified in the regulations or in which a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under s 143 (see the text and note 20 infra) by that person or by a person of any such description (s 143(7)(b)); (3) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of any description so specified (s 143(7)(c)). At the date at which this volume states the law, no such regulations had been made. As to the Secretary of State see para 2 ante. As to the Electoral Commission see para 31 et seq ante.

20 Ibid s 143(8), (9). See note 1 supra. Liability for an offence which arises out of the requirement set out in head (4) in the text is subject to regulations made by virtue of s 143(7)(b) (see note 19 supra).

21 Ibid s 150, Sch 20. The penalty is a fine not exceeding level 5 on the standard scale: see s 150, Sch 20. As to the standard scale see para 736 note 3 ante.

22 Ibid s 143(10). See note 1 supra.

753. Failure to display details on referendum material. No material wholly or mainly relating to a referendum[1] to which the general framework provisions apply[2] is to be published[3] during the referendum period[4] unless the following requirements are met:

(1) where the material is a document consisting (or consisting principally) of a single side of printed matter, the names and addresses of the printer[5] of the

document[6], of the promoter[7] of the material[8] and of any person on behalf of whom the material is being published (and who is not the promoter)[9] must appear on the face of the document[10];

(2) where the material is a printed document other than one to which head (1) above applies, the names and addresses of the printer of the document[11], of the promoter of the material[12] and of any person on behalf of whom the material is being published (and who is not the promoter)[13] must appear either on the first or the last page of the document[14];

(3) where the material is an advertisement contained in a newspaper or periodical, the name and address of the printer of the newspaper or periodical must appear either on its first or last page[15] and there must be included in the advertisement the names and addresses of the promoter of the material[16] and of any person on behalf of whom the material is being published (and who is not the promoter)[17];

(4) in the case of any other material, the name and address of the promoter of the material[18] and the name and address of any person on behalf of whom the material is being published (and who is not the promoter)[19] must be included in the material in accordance with requirements imposed by regulations which may be made for these purposes by the Secretary of State after consulting the Electoral Commission[20].

Where, during the referendum period, any material is published in contravention of these requirements, the promoter of the material and any other person by whom the material is so published (and, in the case of material falling within heads (1) to (3) above, the printer of the document) are guilty of an offence[21] and liable on summary conviction to a penalty[22]. It is a defence for a person charged with such an offence to prove that the contravention of the requirements arose from circumstances beyond his control and that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise[23].

1 For the meaning of 'referendum' for these purposes see para 519 ante.
2 Ie the Political Parties, Elections and Referendums Act 2000 Pt VII (ss 101–129) (as amended).
3 For these purposes, 'publish' means make available to the public at large, or any section of the public, in whatever form and by whatever means: ibid s 126(11).
4 Ibid s 126(1). As to the referendum period see para 519 ante. As to the disapplication of s 126 (as amended) in relation to any material published for the purposes of a referendum held by virtue of the Government of Wales Act 2006 s 103(1) (see CONSTITUTIONAL LAW AND HUMAN RIGHTS), where the publication is required under the Order in Council that causes the referendum to be held, see s 103(7), Sch 6 para 9. The Political Parties, Elections and Referendums Act 2000 s 126(1) does not apply to any material published for the purposes of a referendum if the publication is required under or by virtue of any enactment: s 126(10A) (added by the Electoral Administration Act 2006 s 66(1)).
5 For these purposes, 'print' means print by whatever means; and 'printer' must be construed accordingly: Political Parties, Elections and Referendums Act 2000 s 126(11).
6 Ibid s 126(1)(a), (2)(a), (3).
7 For these purposes, the 'promoter', in relation to any material wholly or mainly relating to a referendum to which the general framework provisions apply, means the person causing the material to be published: ibid s 126(11).
8 Ibid s 126(1)(a), (2)(b), (3).
9 Ibid s 126(1)(a), (2)(c), (3).
10 Ibid s 126(1)(a), (3).
11 Ibid s 126(1)(a), (2)(a), (4).
12 Ibid s 126(1)(a), (2)(b), (4).
13 Ibid s 126(1)(a), (2)(c), (4).
14 Ibid s 126(1)(a), (4).
15 Ibid s 126(1)(a), (5)(a).
16 Ibid s 126(1)(a), (2)(b), (5)(b).
17 Ibid s 126(1)(a), (2)(c), (5)(b).
18 Ibid s 126(1)(b), (6)(a).
19 Ibid s 126(1)(b), (6)(b).

20 Political Parties, Elections and Referendums Act 2000 ss 126(1)(b), (6), 160(1). Such regulations may in particular specify: (1) the manner and form in which such details must be included in any such material for the purpose of complying with any such requirement (s 126(7)(a)); (2) circumstances in which any such requirement does not have to be complied with by a person of any description specified in the regulations or a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under s 126 (as amended) (see the text and note 21 infra) by that person or by a person of any such description (s 126(7)(b)); (3) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of any description so specified (s 126(7)(c)). At the date at which this volume states the law, no such regulations had been made. As to the Secretary of State see para 2 ante. As to the Electoral Commission see para 31 et seq ante.

21 Ibid s 126(8), (9).

22 Ibid s 150, Sch 20. The penalty is a fine not exceeding level 5 on the standard scale: see s 150, Sch 20. As to the standard scale see para 736 note 3 ante. As to the punishment of such offences see further para 890 post.

23 Ibid s 126(10).

754. Offences related to contravention of the controls imposed on expenditure incurred during election and referendum campaigns. A person commits an offence:

(1) if he knowingly or recklessly makes a false declaration as to the value of notional election campaign expenditure[1] incurred by or on behalf of a registered party[2] or as to the value of notional controlled expenditure[3] incurred by or on behalf of a third party in a national election campaign[4], or as to the value of notional referendum expenses[5] incurred by or on behalf of an individual or body during the referendum period[6];

(2) if, without reasonable excuse and in contravention of the restrictions, he incurs any election campaign expenditure without authority by or on behalf of a registered party[7] or he incurs any controlled expenditure without authority by or on behalf of a recognised third party[8] or he incurs any referendum expenses without authority[9];

(3) if, without reasonable excuse, he makes any payment in contravention of the restrictions on payments made that apply in respect of election campaign expenditure[10] or that apply in respect of controlled expenditure incurred by or on behalf of a third party[11] or that apply in respect of referendum expenses[12] or if he contravenes the requirements imposed on such a person regarding delivery of notification and evidence[13];

(4) if, without reasonable excuse he pays any claim which by virtue of being statute-barred is not payable or if he makes any payment in respect of a claim after the end of the period allowed for the payment of claims in respect of election campaign expenditure[14] or in respect of controlled expenditure incurred by or on behalf of a recognised third party[15] or in respect of referendum expenses[16];

(5) if he, as treasurer or deputy treasurer of a registered party, authorised election campaign expenditure to be incurred by or on behalf of the party during the specified period, and he knew or ought reasonably to have known that the expenditure would be incurred in excess of the statutory limitation that applies during that period[17] or if he (or the responsible person, if the third party is not an individual) incurred controlled expenditure in the United Kingdom by or on behalf of a third party during a regulated period (whether that third party was a recognised third party[18] or not[19]) and he knew or ought reasonably to have known that the expenditure would be incurred in excess of the statutory limitation that applies during that period[20];

(6) where a permitted participant[21] or a body or individual who was not a

permitted participant at a referendum incurred referendum expenses during the referendum period, and he[22] knew, or ought reasonably to have known, that the expenses were being incurred or would be incurred in excess of the statutory limitation that applies during that period[23];

(7) where, at a local authority referendum, any referendum expenses are incurred in excess of the referendum expenses limit[24], and he knew or reasonably ought to have known that that limit would be exceeded, or if he, without reasonable excuse, authorised another person to exceed that limit[25];

(8) if, without reasonable excuse, he: (a) fails to deliver a required return as to expenditure to the Electoral Commission[26]; or (b) delivers such a return which does not comply with the requirements as to the statements contained therein or as to the accompanying evidence[27]; or (c) fails to report late payments[28], in respect of election campaign expenditure[29] or in respect of controlled expenditure incurred by or on behalf of a recognised third party[30] or in respect of referendum expenses incurred by or on behalf of a permitted participant[31];

(9) if he knowingly or recklessly makes a declaration as to election campaign expenditure falsely or if the requirements as to such a declaration are contravened at a time when he is treasurer of the registered party to which the return relates[32] or if he knowingly or recklessly makes a declaration as to controlled expenditure falsely or if the requirements as to such a declaration are contravened at a time when he is the responsible person in the case of the recognised third party to which the return relates[33] or if he knowingly or recklessly makes a declaration as to referendum expenses falsely or if the requirements as to such a declaration are contravened at a time when he is the responsible person in the case of the permitted participant to which the return relates[34].

A person guilty of such an offence is liable to a penalty[35].

A person also commits an offence if he accepts the office of deputy treasurer of a registered party when[36] he is not eligible to be so appointed[37]; and a person guilty of such an offence is liable to a penalty[38].

1 Ie under the Political Parties, Elections and Referendums Act 2000 s 73(6) (see para 304 ante), as the treasurer or a deputy treasurer of a registered party appointed under s 74 (as amended) (see para 305 ante). For the meaning of 'registered party' see para 32 note 3 ante; and for the meaning of 'campaign expenditure' see para 304 ante. As to the treasurer of a registered party see para 260 ante.

2 Ibid s 73(8).

3 Ie under ibid s 86(6) (see para 318 ante), as the responsible person of the third party. For the meaning of 'controlled expenditure' for these purposes see para 318 ante; for the meaning of 'third party' for these purposes see para 318 note 2 ante; and for the meaning of 'responsible person' for these purposes see para 318 note 15 ante.

4 Ibid s 86(8).

5 Ie under ibid s 112(6) (see para 527 ante). For the meaning of 'referendum expenses' see para 527 ante.

6 Ibid s 112(8). As to the referendum period see para 519 ante.

7 Ibid s 75(2). As to the restrictions mentioned in the text see para 306 ante.

8 Ibid s 90(2). As to the restrictions mentioned in the text see para 320 ante.

9 Ibid s 113(2). As to the restrictions mentioned in the text see para 528 ante.

10 Ibid s 76(4). As to the restrictions mentioned in the text see para 307 ante.

11 Ibid s 91(4). As to the restrictions mentioned in the text see para 321 ante.

12 Ibid s 114(4). As to the restrictions mentioned in the text see para 529 ante.

13 Ibid ss 76(4), 91(4), 114(4). As to the requirements mentioned in the text see paras 307, 321, 529 ante.

14 Ibid s 77(3). As to the restrictions mentioned in the text see para 308 ante.

15 Ibid s 92(3). As to the restrictions mentioned in the text see para 322 ante.

16 Ibid s 115(3). As to the restrictions mentioned in the text see para 530 ante.

17 Ibid s 79(2). As to the limitation mentioned in the text see para 310 ante. In the circumstances set out in the text, the party is also guilty of an offence: see s 79(2). It is a defence for any person or registered party charged with an offence under s 79(2) to show that any code of practice for the time being issued under

s 72(2), Sch 8 para 3 (see para 304 ante) was complied with in determining the items and amounts of campaign expenditure to be entered in the relevant return as to campaign expenditure under s 80 (see para 312 ante) and that the limit would not have been exceeded on the basis of the items and amounts entered in that return: s 79(3).

18 As to the limits imposed on recognised third parties see ibid s 94(1), Sch 10 (as amended); and para 324 ante.

19 Ibid s 94(3). The limits imposed on third parties which are not recognised third parties are £10,000 for England and £5,000 for Wales: s 94(5).

20 Ibid s 94(2), (4). In the circumstances set out in the text, if the third party is not an individual, the third party is also guilty of an offence: s 94(2), (4).

21 Ie a registered party falling within ibid s 105(1)(a) (see para 521 ante) or an individual falling within s 105(1)(b) (see para 521 ante) or a body falling within s 105(1)(b) (see para 521 ante): see s 118(2). For the meaning of 'permitted participant' see para 521 ante.

22 Ie, in the case of a permitted participant, as the responsible person or any deputy treasurer of a registered party falling within ibid s 105(1)(a) (see para 521 ante) or as an individual falling within s 105(1)(b) (see para 521 ante) or as the responsible person of a body falling within s 105(1)(b) (see para 521 ante) (see s 118(2)) and, in the case of an individual who was not a permitted participant, that individual (see s 117(2)) and, in the case of a body which was not a permitted participant, any person who authorised the expenses to be incurred by or on behalf of the body (see s 117(3)). For the meaning of 'responsible person' in relation to a permitted participant which is a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to a permitted participant which is an individual or body but which is not a registered party see para 521 note 32 ante.

23 Ibid ss 117(2), (3), 118(2). As to the limits imposed on a body or individual who is not a permitted participant see para 532 ante; and as to the limits imposed on permitted participants see para 533 ante. Where the circumstances set out in the text apply to a body who was not a permitted participant, the body in question is also guilty of an offence (s 117(4)); where the circumstances set out in the text apply to a permitted participant who is a registered party falling within s 105(1)(a) (see para 521 ante), the party is also guilty of an offence and, where the circumstances set out in the text apply to a permitted participant who is a body falling within s 105(1)(b) (see para 521 ante), the body is also guilty of an offence (s 118(2)). It is a defence for a permitted participant or other person charged with an offence under s 118(2) to show that any code of practice for the time being issued under s 111(1), (2), Sch 13 para 3 (see para 527 ante) was complied with in determining the items and amounts of campaign expenditure to be entered in the relevant return as to referendum expenses under s 120 (see para 534 ante) and that the limit would not have been exceeded on the basis of the items and amounts entered in that return: s 118(3).

24 As to the limit referred to in the text see para 580 ante.

25 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(3). Where information is given to the Director of Public Prosecutions that an offence as set out in the text has been committed, it is his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(4). Where such an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any other person purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(5); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(5).

26 Political Parties, Elections and Referendums Act 2000 ss 82(4)(a), 98(4)(a), 122(4)(a). As to the Electoral Commission see para 31 et seq ante.

27 Ibid ss 82(4)(b), 98(4)(b), 122(4)(b).

28 Ibid ss 82(4)(c), 98(4)(c), 122(4)(c).

29 Ibid s 82(4). The person liable for such an offence is the treasurer of a registered party but, notwithstanding any criminal liability of any person, the registered party is liable to a civil penalty (see para 757 post): ss 82(4), 147(e), (2). As to the requirements that need to be met in the delivery of returns as to election campaign expenditure see para 313 ante.

30 Ibid s 98(4). The person liable for such an offence is the responsible person in the case of a recognised third party but, notwithstanding any criminal liability of any person, the recognised third party is liable to a civil penalty (see para 757 post): ss 98(4), 147(f), (2). As to the requirements that need to be met in the delivery of returns as to controlled expenditure see para 327 ante.

31 Ibid s 122(4). The person liable for such an offence is the responsible person in the case of a permitted participant but, notwithstanding any criminal liability of any person, the permitted participant is liable to

a civil penalty (see para 757 post): ss 122(4), 147(g), (2). As to the requirements that need to be met in the delivery of returns as to referendum expenses incurred by or on behalf of a permitted participant see para 535 ante.

32 Ibid s 83(3). As to the declaration that is required as mentioned in the text see para 314 ante.

33 Ibid s 99(4). As to the declaration that is required in respect of controlled expenditure as mentioned in the text see para 328 ante.

34 Ibid s 123(4). As to the declaration that is required as mentioned in the text see para 536 ante.

35 A person guilty of an offence under head (1) in the text is liable, on conviction on indictment, to a fine or to imprisonment for a term not exceeding one year or, on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months: ibid s 150, Sch 20. A person guilty of an offence under any of head (2), (3), (4), (8)(a) or (8)(c) in the text is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale: s 150, Sch 20. A person guilty of an offence under head (5) in the text is liable, on conviction on indictment, to a fine or, on summary conviction, to a fine not exceeding the statutory maximum: s 150, Sch 20. An individual who is guilty of an offence under head (6) in the text is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both; but a person who is guilty of an offence under head (6) in the text and who acted on behalf of a permitted participant or on behalf of a body which was not a permitted participant is liable, on conviction on indictment, to a fine or to imprisonment for a term not exceeding one year or, on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months: s 150, Sch 20. A person guilty of an offence under any of head (7), (8)(b) or (9) in the text is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: s 150, Sch 20; Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 6(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 6(6). As to the statutory maximum, with reference to a fine or penalty on summary conviction for an offence, see para 741 note 15 ante. As to the standard scale see para 736 note 3 ante. As to the punishment of such offences see further para 890 et seq post.

36 Ie by virtue of the Political Parties, Elections and Referendums Act 2000 s 74(3) (as amended) (see para 305 ante).

37 Ibid s 74(4).

38 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale: see s 150, Sch 20.

755. Offences related to contravention of the controls imposed on donations during election and referendum campaigns. At an election[1], if a person without reasonable excuse fails to comply with the provisions which require principal donors[2] and agents acting on behalf of donors[3] to give the required details of each relevant donation[4] made to a candidate[5] or his election agent[6] or to a recognised third party[7], as the case may be, he commits an offence[8]. A person guilty of such an offence is liable to a penalty[9]. At a referendum[10], if a person without reasonable excuse fails to comply with the provisions which require principal donors[11] and agents acting on behalf of donors[12] to give the required details of each relevant donation[13] made to a permitted participant[14], he commits an offence[15]. A person guilty of such an offence is liable to a penalty[16].

At an election, if a donation made by a person who is not a permissible donor at the time of its receipt by a registered party[17] or by a recognised third party[18] (as the case may be) is not sent back as required, the candidate or his election agent (in relation to the registered party) or the responsible person or the party itself (in relation to the recognised third party) is each guilty of an offence[19]; and if the required steps are not taken in relation to a donation where the registered party[20] or recognised third party[21], as the case may be, is unable to ascertain the identity of the person offering it (whether because it is given anonymously or by reason of any deception or concealment or otherwise), the candidate or his election agent (in relation to the registered party) or the responsible person (in relation to the recognised third party) is each guilty of an offence[22]. In either case, a person found guilty of the offence is liable to a penalty[23]. At a referendum, if a donation made by a person who is not a permissible donor at the time

of its receipt by a permitted participant[24] is not sent back as required, the responsible person in relation to the permitted participant is guilty of an offence[25]; and if the required steps are not taken in relation to a donation where the permitted participant is unable to ascertain the identity of the person offering it (whether because it is given anonymously or by reason of any deception or concealment or otherwise), the responsible person in relation to the permitted participant is guilty of an offence[26]. In either case, a person found guilty of the offence is liable to a penalty[27].

A person commits an offence if he knowingly enters into, or knowingly does any act in furtherance of, any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of relevant donations to a candidate or his election agent or to a recognised third party (as the case may be) in relation to an election or to a permitted participant at a referendum by any person or body other than a permissible donor[28]. A person also commits an offence if he knowingly gives the candidate at an election or his election agent (or both) or the responsible person (in relation to a recognised third party at an election or a permitted participant at a referendum) any information relating to the amount of any donation made, or relating to the person or body making such a donation, which is false in a material particular or if, with intent to deceive, he withholds from them any material information relating to any such matter[29]. A person found guilty of any such offence is liable to a penalty[30].

1 Ie at any of a parliamentary election, an Authority election, an election under the local government Act (see the Representation of the People Act 1983 s 202(1); and para 3 note 1 ante), a constituency or regional election for the return of members of the National Assembly for Wales or a European parliamentary election. For the meaning of 'parliamentary election' see para 9 ante; for the meanings of 'Authority election' and 'local government election' see para 10 ante; and for the meaning of 'election under the local government Act' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to elections to the National Assembly for Wales generally see para 220 et seq ante; and as to European parliamentary elections see para 224 et seq ante.

2 Ie, in the case of a parliamentary or local government election, the Representation of the People Act 1983 s 71A, Sch 2A para 6(5) (as added) or, in the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 39(4), Sch 6 para 6(5) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 42(4), Sch 6 para 6(5) (see para 293 ante) or, in the case of donations made to recognised third parties, the Political Parties, Elections and Referendums Act 2000 s 95, Sch 11 para 6(5) (see para 331 ante).

3 Ie, in the case of a parliamentary or local government election, the Representation of the People Act 1983 Sch 2A para 6(6) (as added) or, in the case of a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(6) or, in the case of a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(6) (see para 293 ante) or, in the case of donations made to recognised third parties, the Political Parties, Elections and Referendums Act 2000 Sch 11 para 6(6) (see para 331 ante).

4 For the meanings of 'donation' and 'relevant donation' in relation to candidates at an election see para 292 ante.

5 For the meaning of 'candidate' generally see para 237 ante. The reference in the text is to an 'individual candidate' for the purposes of a regional election for the return of members of the National Assembly for Wales and for the purposes of a European parliamentary election. For the meaning of 'individual candidate' in relation to a Welsh Assembly election see para 237 note 23 ante; and for the meaning of 'individual candidate' in relation to a European parliamentary election see para 237 note 32 ante.

6 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante; and as to the appointment of the election agent of a registered party or for an individual candidate at a European parliamentary election see para 246 ante.

7 For the meaning of 'recognised third party' see para 318 note 15 ante; and for these purposes see para 330 note 3 ante. For the meanings of 'donation' and 'relevant donation' in relation to a recognised third party see para 330 ante.

8 Representation of the People Act 1983 Sch 2A para 6(7) (Sch 2A added by the Political Parties, Elections and Referendums Act 2000 s 130(1)–(4)); Political Parties, Elections and Referendums Act 2000 Sch 11

para 6(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(7); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(7).

9 Representation of the People Act 1983 Sch 2A para 6(8) (as added: see note 8 supra); Political Parties, Elections and Referendums Act 2000 s 150, Sch 20; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(8). Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see the Representation of the People Act 1983 Sch 2A para 6(8) (as so added); the Political Parties, Elections and Referendums Act 2000 s 150, Sch 20; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 6(8); and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 6(8). As to the statutory maximum, with reference to a fine or penalty on summary conviction for an offence, see para 741 note 15 ante.

10 For the meaning of 'referendum' for these purposes see para 519 ante.

11 Ie the Political Parties, Elections and Referendums Act 2000 s 119, Sch 15 para 6(6) (see para 539 ante).

12 Ie ibid Sch 15 para 6(7) (see para 539 ante).

13 For the meanings of 'donation' and 'relevant donation' for these purposes see para 538 ante.

14 For the meaning of 'permitted participant' see para 521 ante; and see also para 538 note 6 ante.

15 Political Parties, Elections and Referendums Act 2000 Sch 15 para 6(8).

16 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20.

17 As to the acceptance or return of donations received by a candidate at an election see para 294 ante.

18 As to the acceptance or return of donations made to a recognised third party at an election see para 332 ante.

19 Political Parties, Elections and Referendums Act 2000 s 56(3) (s 56 applied and modified by the Representation of the People Act 1983 Sch 2A para 7 (as added: see note 8 supra); the Political Parties, Elections and Referendums Act 2000 Sch 11 para 7; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 7; and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 7). For the meaning of 'responsible person' in relation to a recognised third party see para 318 note 15 ante.

20 As to the steps required to be taken with regard to the acceptance or return of donations received by a candidate at an election see para 294 ante.

21 As to the steps required to be taken with regard to the acceptance or return of donations made to a recognised third party at an election see para 332 ante.

22 Political Parties, Elections and Referendums Act 2000 s 56(4) (as applied and modified: see note 19 supra).

23 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20.

24 As to the acceptance or return of donations received by permitted participants at a referendum see para 540 ante.

25 Political Parties, Elections and Referendums Act 2000 s 56(3); applied and modified by s 118, Sch 15 para 7. For the meaning of 'responsible person' in relation to a permitted participant which is a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to a permitted participant which is an individual or body but which is not a registered party see para 521 note 32 ante.

26 Ibid s 56(4); applied and modified by Sch 15 para 7.

27 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 1509, Sch 20.

28 Ibid s 61(1) (s 61 applied and modified by the Representation of the People Act 1983 Sch 2A para 9 (as added: see note 8 supra); the Political Parties, Elections and Referendums Act 2000 Sch 11 para 8, Sch 15 para 8; the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 6 para 9; and the European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 6 para 9).

29 Political Parties, Elections and Referendums Act 2000 s 61(2) (as applied and modified: see note 28 supra).

30 Ibid s 150, Sch 20. Such a person is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20.

756. Offences regarding obstruction of the Electoral Commission in its duties etc. A person commits an offence:

(1) if he fails, without reasonable excuse, to comply with any requirement imposed under the provisions which relate to the supervisory powers of the Electoral Commission[1];

(2) if he intentionally obstructs a person who is authorised in writing by the Commission[2] in the carrying out of that person's functions[3];

(3) if he alters, suppresses, conceals or destroys, or causes or permits the alteration, suppression, concealment or destruction of, any document[4] or other record[5] relating to the financial affairs or transactions of a supervised organisation[6] or individual[7] which is or is liable to be required to be produced for inspection under the supervisory powers of the Commission[8], and does so with the intention of falsifying the document or record or enabling that organisation or individual to evade any of the provisions of the Political Parties, Elections and Referendums Act 2000[9];

(4) if he is the office-holder in circumstances where the relevant person[10] in the case of a supervised organisation[11], or a person acting on his behalf, requests a person holding an office in any such organisation (the 'office-holder') to supply the relevant person with any information which he reasonably requires for the purposes of any of the provisions of the Political Parties, Elections and Referendums Act 2000[12], and the office-holder: (a) without reasonable excuse fails to supply the relevant person with that information as soon as is reasonably practicable[13]; or (b) in purporting to comply with the request, knowingly supplies the relevant person with any information which is false in a material particular[14];

(5) if, with intent to deceive, he withholds from the relevant person in the case of a supervised organisation[15], or from a supervised individual[16], any information required by the relevant person or that individual for the purposes of any of the provisions of the Political Parties, Elections and Referendums Act 2000[17].

A person guilty of such an offence is liable to a penalty[18].

1 Political Parties, Elections and Referendums Act 2000 s 146(5). The text refers to any requirement imposed under s 146 (as amended) (see para 58 ante). As to the Electoral Commission see para 31 et seq ante.

2 Ie authorised as mentioned in ibid s 146(3) to exercise powers for the purposes of carrying out the Commission's functions (see para 58 ante).

3 Ibid s 146(6). The text refers to the carrying out of that person's functions under s 146(3) (see para 58 ante). As to the meaning of 'functions' see para 31 note 2 ante.

4 For the meaning of 'document' see para 43 note 1 ante.

5 For the meaning of 'record' see para 40 note 2 ante.

6 For these purposes, 'supervised organisation' means a registered party or (in the case of such a party with accounting units) the central organisation of the party or any of its accounting units, a regulated donee which is a members association, a regulated participant which is a members association, a recognised third party other than an individual, or a permitted participant other than an individual, where 'regulated donee' and 'members association' have the same meanings as in the Political Parties, Elections and Referendums Act 2000 s 71, Sch 7 (as amended) (control of donations to individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS), 'regulated participant' has the same meaning as in Sch 7A (as added) (control of loans and certain other transactions to individuals and members associations: see CONSTITUTIONAL LAW AND HUMAN RIGHTS), 'recognised third party' has the same meaning as in Pt VI (ss 85–100) (as amended) (controls affecting expenditure by recognised third parties in national parliamentary election campaigns: see para 318 et seq ante) and 'permitted participant' has the same meaning as in Pt VII (ss 101–129) (as amended) (referendums: see para 519 et seq ante): s 148(6) (amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 138, 151(1), (3), (5)). Accordingly, for the meaning of 'recognised third party' see para 318 note 15 ante; and for the meaning of 'permitted participant' see para 521 ante. For the meaning of 'registered party' see para 32 note 3 ante; and for the meanings of 'accounting units', 'central organisation' (in relation to a registered party) and 'party with accounting units' see para 260 note 15 ante. In the Political Parties, Elections and Referendums Act 2000 s 148(1)–(3), any reference to a supervised organisation includes a reference to a former supervised organisation: s 148(4).

7 For these purposes, 'supervised individual' means an individual who is a regulated donee, regulated participant, a recognised third party or a permitted participant: ibid s 148(6) (definition amended by the Electoral Administration Act 2006 Sch 1 paras 138, 151(1), (2)). In the Political Parties, Elections and Referendums Act 2000 s 148(1)–(3), any reference to a supervised individual includes a reference to a former supervised individual (s 148(4)) and s 148(1)–(3) applies in relation to a person who is (or has been) a candidate at an election or the election agent for such a candidate, as it applies in relation to a supervised individual (or a former supervised individual), except that in its application in relation to any such person any reference to any of the provisions of the Political Parties, Elections and Referendums Act 2000 includes a reference to any other enactment imposing any restriction or other requirement falling within s 145(1)(b) (compliance with restrictions and other requirements imposed in relation to election expenses or donations: see para 57 ante) (s 148(5)). For these purposes, 'election' means a relevant election for the purposes of Pt II (ss 22–40) (as amended) (see para 260 ante) and 'election agent' includes a sub-agent: s 145(7). As to the nomination of sub-agents see para 240 et seq ante.

8 Ie under ibid s 146(1) (see para 58 ante).

9 Ibid s 148(1).

10 For these purposes, 'relevant person' means a person who is (or has been), in relation to a registered party (other than a minor party) or the central organisation of such a party, the treasurer of the party or, in relation to any accounting unit of such a party, the registered treasurer of the unit or, in relation to a regulated donee which is a members association, the responsible person for the purposes of ibid Sch 7 (as amended) or, in relation to a regulated participant which is a members association, the person responsible for the purposes of Sch 7A (as added) or, in relation to a recognised third party, the responsible person for the purposes of Pt VI (as amended) or, in relation to a permitted participant, the responsible person for the purposes of Pt VII (as amended): s 148(6) (definition amended by the Electoral Administration Act 2006 Sch 1 paras 138, 151(1), (4)). For the meaning of 'treasurer' see para 45 note 7 ante; for the meaning of 'minor party' see para 260 note 8 ante; for the meaning of 'responsible person' in relation to a recognised third party see para 318 note 15 ante; for the meaning of 'responsible person' in relation to a permitted participant which is a registered party see para 521 note 23 ante; and for the meaning of 'responsible person' in relation to a permitted participant which is an individual or body but which is not a registered party see para 521 note 32 ante.

11 See note 6 supra.

12 Political Parties, Elections and Referendums Act 2000 s 148(2).

13 Ibid s 148(2)(a).

14 Ibid s 148(2)(b).

15 See note 6 supra.

16 See note 7 supra.

17 Political Parties, Elections and Referendums Act 2000 s 148(3).

18 Ibid s 150, Sch 20. A person guilty of an offence under any of head (1), (2) or (4)(a) in the text is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale; and a person guilty of an offence under any of head (3), (4)(b) or (5) in the text is liable, on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding six months or both or, on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year or both: see s 150, Sch 20. As to the standard scale see para 736 note 3 ante. As to the statutory maximum, with reference to a fine or penalty on summary conviction for an offence, see para 741 note 15 ante.

(vii) Civil Liabilities

757. Failure to comply with delivery etc of returns to the Electoral Commission. Where the following statutory requirements are not complied with, namely:

(1) the requirements[1] in relation to any notification required to be given to the Electoral Commission[2] by the treasurer of a registered party[3];

(2) the requirements[4] in relation to any return or auditor's report to the Commission relating to a registered party[5];

(3) the requirements[6] in relation to any return or auditor's report to the Commission relating to a recognised third party[7]; or

(4) the requirements[8] in relation to any return or auditor's report to the Commission relating to a permitted participant[9],

the relevant organisation[10] is liable to a civil penalty[11]. The amount of the penalty is to be determined by reference to the length of the period between: (a) the end of the

period within which the notification mentioned in head (1) above was required to be given to the Commission[12] or within which the document mentioned in heads (2) to (4) above was required to be delivered to it[13], as the case may be[14]; and (b) the day on which the requirements are complied with[15].

Any penalty so imposed is recoverable in proceedings brought by the Commission as a debt due to it[16] and, once so recovered, must be paid by it into the Consolidated Fund[17]. Where the relevant organisation is an unincorporated association, any such penalty must be paid out of the funds of the organisation[18].

1 Ie the requirements of the Political Parties, Elections and Referendums Act 2000 s 74(6) (see para 305 ante).
2 As to the Electoral Commission see para 31 et seq ante.
3 Political Parties, Elections and Referendums Act 2000 s 147(1)(d). For the meaning of 'registered party' see para 32 note 3 ante; and for the meaning of 'treasurer' see para 45 note 7 ante.
4 Ie the requirements of ibid s 82(1), (2), (3) (see para 313 ante).
5 Ibid s 147(1)(e).
6 Ie the requirements of ibid s 98(1), (2), (3) (see para 327 ante).
7 Ibid s 147(1)(f). 'Recognised third party' has the same meaning as in Pt VI (ss 85–100) (as amended) (controls affecting expenditure by recognised third parties in national parliamentary election campaigns: see para 318 et seq ante): see para 318 note 15 ante.
8 Ie the requirements of ibid s 122(1), (2), (3) (see para 535 ante).
9 Ibid s 147(1)(g). 'Permitted participant' has the same meaning as in Pt VII (ss 101–129) (as amended) (referendums: see para 519 et seq ante): see para 521 ante.
10 Ie, in a case falling within head (1) or head (2) in the text, the registered party concerned; in a case falling within head (3) in the text, the recognised third party concerned; and, in a case falling within head (4) in the text, the permitted participant concerned: ibid s 147(8).
11 Ibid s 147(2). This is in addition to any criminal liability of any person under any other provision of the Political Parties, Elections and Referendums Act 2000: s 147(2).
12 Ibid ss 147(3)(a)(i), 160(1).
13 Ibid s 147(3)(a)(ii).
14 Ibid s 147(3)(a).
15 Ibid s 147(3)(b). Accordingly, such a period whose length is not more than three months incurs a penalty of £500, such a period of more than three months but not more than six months incurs a penalty of £1,000, and such a period of more than six months but less than 12 months incurs a penalty of £2,000: s 147(3). If the requirements are not complied with by the end of the period of 12 months after the end of the period referred to in head (a) in the text, a penalty of £5,000 is payable in respect of that period of 12 months and in respect of each subsequent period of 12 months during any part of which the requirements are not complied with: s 147(4).
16 Ibid ss 147(5)(a), 160(1).
17 Ibid s 147(5)(b). As to the Consolidated Fund see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 711 et seq; PARLIAMENT vol 34 (Reissue) paras 952–955
18 Ibid s 147(6).

758. Financial penalty for sitting or voting in office where no financial returns or declarations are transmitted. If, in the case of any candidate at a parliamentary election[1], the return[2] and declarations[3] as to election expenses are not delivered before the expiration of the time limited for the purpose, that candidate must not after the expiration of that time sit or vote in the House of Commons as the member for the constituency[4] for which the election was held[5] until either that return and those declarations have been delivered[6], or until the date of the allowance of an authorised excuse[7] for the failure to deliver the same[8], and if he sits or votes in contravention of this provision, he forfeits £100 for every day on which he so sits or votes[9].

Similarly a candidate at a local government election[10] must not, after the expiration of the expiration of the time limited for the purpose, sit or vote in the council for the local government area for which the election was held[11] to which he has been elected until the appropriate return and declaration or declarations[12] have been delivered or

until the date of the allowance of an authorised excuse[13], and, if he does so, he forfeits £50 for every day on which he so sits or votes[14].

At a Welsh Assembly election[15], if the appropriate return and declaration or declarations[16] are not delivered before the expiry of the time limited for the purpose, the candidate must not, after the expiry of that time, sit or vote in the National Assembly for Wales as member for the Assembly constituency[17] or Assembly electoral region[18] for which the election was held until either that return and those declarations (or that declaration, as the case may be) have been delivered[19] or the date of the allowance of an authorised excuse for the failure to deliver that return and those declarations or, as the case may be, that declaration[20], and if he sits or votes in contravention of this provision he forfeits £100 for every day on which he so sits or votes[21].

Civil proceedings for a penalty under these provisions must be commenced within the period of one year beginning with the day in respect of which the penalty is alleged to have been incurred[22]. In respect of a candidate at a local government election[23], instead of civil proceedings for a penalty, summary proceedings may be instituted[24] in a magistrates' court and he is liable on conviction to a fine of an amount not exceeding the amount of the penalty that would be recoverable in civil proceedings[25].

1 For the meaning of 'candidate' generally see para 237 ante; and for the meaning of 'parliamentary election' see para 9 ante.
2 For the meaning of 'return as to election expenses' see para 286 note 1 ante. A return which has been duly delivered constitutes a good return for these purposes, even though there is an error in the return: *Mackinnon v Clark* [1898] 2 QB 251 at 257–258, CA, per A L Smith LJ.
3 For the meaning of 'declaration as to election expenses' see para 287 note 2 ante.
4 For the meaning of 'constituency' see para 9 ante.
5 Representation of the People Act 1983 s 85(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 29(a)).
6 Representation of the People Act 1983 s 85(1)(a) (as amended: see note 5 supra).
7 For the meaning of 'date of the allowance of an excuse' for these purposes see para 691 ante.
8 Representation of the People Act 1983 s 85(1)(b) (as amended: see note 5 supra). The penalty belongs to the Crown: *Bradlaugh v Clarke* (1883) 8 App Cas 354, HL.
9 Representation of the People Act 1983 s 85(1).
10 For the meaning of 'local government election' see para 10 ante. However, ibid s 85(1), (2) (as amended) does not apply in relation to a candidate in an election of the Mayor of London (for which separate provision is made by disqualification under s 85A (as added): see para 903 post): s 85(2A)(a) (s 85(2A) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 25).
11 For the meaning of 'local government area' see para 18 note 2 ante. The Representation of the People Act 1983 s 85 (as amended) does not apply to an election of parish councillors in England or community councillors in Wales but, by virtue of s 90(1)(b) (as amended), provision is made in relation to a parish council in England and community council in Wales under Sch 4 (as amended). As respects an Authority election, except an election of the Mayor of London (see note 10 supra), the reference to the council for the local government area for which the election was held must be taken as a reference to the London Assembly: s 85(2A)(b) (as added: see note 10 supra). For the meaning of 'Authority election' see para 10 ante. As to elections in the City of London see para 30 ante.
12 In the case of a candidate included in a list submitted by a registered political party under the Greater London Authority Act 1999 s 4(6), Sch 2 para 5(2) (election of London members of the London Assembly: see para 233 ante), the references to returns and declarations in respect of election expenses are references to the declaration as to election expenses by the candidate: s 85(2A)(c) (as added: see note 10 supra).
13 For the meaning of 'date of the allowance of an authorised excuse' in relation to a parish or community council see para 692 note 11 ante.
14 Representation of the People Act 1983 s 85(1) (as amended: see note 5 supra); applied by s 85(2); and by s 90(1)(b), Sch 4 para 4(1). This provision does not apply to sitting or voting at meetings of committees of the council: *Nichol v Fearby* [1923] 1 KB 480.
15 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
16 Ie, in the case of a candidate at a constituency election or an individual candidate at a regional election, the return and declarations as to election expenses (National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 55(1)(a)) or, in the case of a party list candidate, his declaration as to election expenses (art 55(1)(b)). For the meanings of 'constituency election' and 'regional election' in

the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'individual candidate' and 'party list candidate' in relation to a Welsh Assembly regional election see para 237 note 23 ante.

17 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.

18 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.

19 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 55(1)(i), (ii).

20 Ibid art 55(1)(iii).

21 Ibid art 55(1).

22 Representation of the People Act 1983 s 85(3) (substituted by the Representation of the People Act 1985 Sch 4 para 29(b)); Representation of the People Act 1983 Sch 4 para 4(2) (substituted by the Representation of the People Act 1985 Sch 4 para 89(b)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 55(2). For these purposes, where the service or execution of legal process on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, the issue of legal process is deemed to be a commencement of a proceeding; but, where this does not apply, the service or execution of legal process on or against the alleged offender, and not its issue, is deemed to be the commencement of the proceeding: Representation of the People Act 1983 s 85(4) (amended by the Political Parties, Elections and Referendums Act 2000 s 138(1), Sch 18 para 1, 19(2)); Representation of the People Act 1983 Sch 4 para 4(3) (amended by the Representation of the People Act 1985 Sch 4 para 89(b); and the Political Parties, Elections and Referendums Act 2000 Sch 18 para 1, 19(7)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 55(3). On any proceedings for a penalty under the Representation of the People Act 1983 s 85 (as amended) or Sch 4 para 4 (as amended) the certificate of the returning officer at an election that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at the election, is sufficient evidence of the facts stated in it: s 180.

23 See note 10 supra.

24 As to the time within which the proceedings must be instituted see para 881 post.

25 See the Representation of the People Act 1983 s 85(2)(b); and Sch 4 para 4(1)(b).

(3) QUESTIONING ELECTIONS AND REFERENDUMS

(i) Method and Regulation of Procedure

759. Questioning parliamentary elections. No parliamentary election[1] and no return to Parliament[2] may be questioned except by a petition (a 'parliamentary election petition')[3] complaining of an undue election or undue return, which is presented in accordance with the statutory provisions[4].

The Representation of the People Act 1983 does not define what is meant by an undue election or undue return, but a number of the provisions of that Act provide that a parliamentary election may be avoided for corrupt or illegal practices or similar offences[5]. The occurrence of these offences may form the ground for bringing an election petition. Further, certain persons are disqualified from being candidates at parliamentary elections[6], and if such a person is elected, his election can only be questioned by an election petition[7]. A returning officer's decision that a nomination paper is invalid can be questioned on an election petition[8]. Other objections to a candidate's nomination can also be considered on an election petition[9]. When the result of the poll has been ascertained it is the returning officer's duty forthwith to declare the candidate to whom the majority of votes have been given to be elected[10]. If it is alleged that there has been a miscount, a petition may be brought demanding a recount[11]; if it is contended that votes were wrongly admitted or rejected, a petition may claim the seat for an unsuccessful candidate on the ground that he had a majority of lawful votes[12]. No parliamentary election is to be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the parliamentary elections rules if it appears to the tribunal

having cognisance of the question that the election was so conducted as to be substantially in accordance with the law as to elections and the act or omission did not affect the result[13].

A petition complaining of no return is deemed to be a parliamentary election petition, and the High Court may make such order on the petition as it thinks expedient for compelling a return to be made or it may allow the petition to be heard by an election court[14] as provided with respect to ordinary election petitions[15].

1 For the meaning of 'parliamentary election' see para 9 ante.
2 The distinction drawn by the statute between a petition questioning a parliamentary election and one questioning a return to Parliament does not appear in relation to a petition questioning an election under the Local Government Act 1972: see para 760 post.
3 For these purposes, 'election petition' means a petition presented in pursuance of the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (legal proceedings): s 202(1).
4 Ibid s 120(1). The text refers to the provisions of Pt III (as amended).
5 As to illegal practices (including those which are also offences) see para 674 et seq ante; as to corrupt practices (including those which are also offences) see para 707 et seq ante, and as to the consequences of such practices see para 885 et seq post. As to corruption generally see para 893 post; and as to employment of a corrupt agent see para 894 post.
6 As to disqualification for membership of the House of Commons (and therefore for candidacy at parliamentary elections) see para 231 ante.
7 See e g *Galway County Case* (1872) 2 O'M & H 46; *Tipperary County Case* (1875) 3 O'M & H 19. The returning officer cannot hold a nomination paper invalid on the ground of the candidate's disqualification unless the rules so provide: see para 271 ante. As to votes regarded as thrown away see para 843 post.
8 See the Representation of the People Act 1983 s 23(1), Sch 1 r 12(6); and para 271 ante. See also *R v Dublin Town Clerk* (1909) 43 ILT 169. A returning officer's decision that a nomination paper is valid is final: see the Representation of the People Act 1983 Sch 1 r 12(5); and para 271 ante.
9 See ibid Sch 1 r 12(6); and para 271 ante. Notwithstanding the different statutory wording on which the cases were decided, see *Monks v Jackson* (1876) 1 CPD 683; *Brown v Benn* (1889) 53 JP 167, DC; *Boyce v White* (1905) 92 LT 240, DC.
10 See the Representation of the People Act 1983 Sch 1 r 50(1); and para 478 ante.
11 See e g *Renfrew County Case* (1874) 2 O'M & H 213; *Halifax Case* (1893) 9 TLR 563, 4 O'M & H 203; *Lancaster County, North Lonsdale Division Case* (1910) 6 O'M & H 97; *Wiltshire, North Western Chippenham Division Case* (1911) 6 O'M & H 99; *Mile End Division, Tower Hamlets, Case* (1911) 6 O'M & H 100; *Gloucester Borough Case, Lynch v Terrell* (1911) 6 O'M & H 101; *St Pancras, West Division Case* (1911) 6 O'M & H 102. As to applications for a recount see paras 853–854 post.
12 *Taunton Case, Williams and Mellor v Cox* (1869) 21 LT 169 at 173, 1 O'M & H 181 at 186; *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 215. As to the rejection of ballot papers see para 434 et seq ante.
13 See the Representation of the People Act 1983 s 23(3); and para 355 ante.
14 For these purposes, 'election court' means, in relation to a parliamentary election petition, the judges presiding at the trial: ibid s 202(1).
15 Ibid s 120(2).

760. Questioning local elections. An election under the Local Government Act 1972[1] may be questioned on the following grounds: (1) that the person whose election is questioned was, at the time of the election, disqualified[2]; or (2) that the person whose election is questioned was not duly elected[3]; or (3) that the election was avoided by corrupt or illegal practices[4]; or (4) that corrupt or illegal practices or illegal payments, employments or hirings, committed with reference to the election for the purpose of promoting or procuring the election of any person, have so extensively prevailed that they may be reasonably supposed to have affected the result[5]; or (5) that the candidate or his election agent personally engaged, as a canvasser or agent for the conduct or management of the election, any person whom he knew or had reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of his having been convicted of certain corrupt or illegal practices[6]. An election under the Local Government Act 1972 must not be questioned on any of these grounds except by an election petition[7]. A returning officer's decision that a nomination paper is invalid[8]

can be questioned on an election petition[9]. Other objections to a candidate's nomination have also been considered on an election petition[10]. An election under the Local Government Act 1972 can be declared invalid on the ground of irregularities on the part of election officials if it appears to the court that the election was not so conducted as to be substantially in accordance with the law as to elections or that the irregularities affected the result[11].

1 For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to elections in the City of London see para 30 ante.
2 Representation of the People Act 1983 s 127(a). As to disqualification for being elected to local government office see LOCAL GOVERNMENT vol 29(1) (Reissue) para 118.
3 Ibid s 127(b). This covers claims for a scrutiny (see para 837 et seq post) or for a recount (see paras 853–854 post): see *Greenock Case* (1892) Day 20.
4 Representation of the People Act 1983 s 127. As to the avoidance of elections where the elected candidate has been reported guilty of corrupt or illegal practices see para 892 post.
5 See ibid s 164; and para 893 post (provisions applied by s 127).
6 See ibid s 165; and para 894 post (provisions applied by s 127).
7 Ibid s 127; *R v Morton* [1892] 1 QB 39. The seat or office is, however, vacated if the successful candidate is convicted of a corrupt practice: see para 904 post.
8 As to questioning the validity of nomination papers see para 271 ante.
9 See the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 8(8); the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 8(8); and para 271 ante.
10 See *Brown v Benn* (1889) 53 JP 167; *Boyce v White* (1905) 92 LT 240, DC. The wording of the statutory provisions on which those cases were decided was, however, different from that of the current provisions (as to which see note 9 supra).
11 See the Representation of the People Act 1983 s 48(1); and para 359 ante. See also *Morgan v Simpson* [1975] QB 151, [1974] 3 All ER 722, CA; *Ruffle v Rogers* [1982] QB 1220, [1982] 3 All ER 157, CA.

761. Application of provisions relating to questioning parliamentary and local elections to other polls. The statutory provisions relating to parliamentary and local election petitions[1], so far as they apply to the election of parish or community councillors or of the chairman of a parish or community council[2], have effect subject to such adaptations, modifications and exceptions as may be made by rules made by the Secretary of State[3]. The statutory provisions relating to the questioning of elections[4] apply also to the election of the chairman of a parish meeting, and to a poll consequent on a parish or community meeting relating to appointment to any other office, as though they were polls for elections of parish or community councillors, subject to certain modifications and adaptations[5].

No return of an elected mayor or elected executive member at an election[6] is to be questioned except by an election petition under the provisions of the Representation of the People Act 1983[7] as applied by or incorporated in regulations made for the purpose[8].

The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified also for the purpose of questioning a local authority referendum[9].

1 Ie the provisions of the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (legal proceedings).
2 As to the election of councillors for parish or community councils and of the chairman for parish meetings generally see para 207 ante. As to parish meetings see further the text and notes 4–5 infra. As to elections in the City of London see para 30 ante.
3 Representation of the People Act 1983 s 187(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 64). As to the Secretary of State see para 2 ante. The reference in the text is to rules under the Representation of the People Act 1983 s 36 (as amended) (see para 388 ante). The only modifications so made under the current rules are, in the case of parish or community elections, a reduction in the amount of the security which a petitioner must give for costs (see para 794 post) and the substitution of references to the returning officer for references to the proper officer of the authority: see

the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 6. As to the returning officer at a parish or community council election see para 359 ante. As to the Secretary of State see para 2 ante.

4 See note 1 supra.

5 Representation of the People Act 1983 s 187(1) (as amended: see note 3 supra); Local Government Act 1972 s 99, Sch 12 paras 18(5), 34(5) (amended by the Representation of the People Act 1983 s 206, Sch 8 para 14); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6. The provisions referred to in the Representation of the People Act 1983 s 187(1) (as amended) are applied to such an election and to such polls as are mentioned in the text subject to the modifications that: (1) references to the proper officer of the authority for which the election was held are to be taken as references to the returning officer (Parish and Community Meetings (Polls) Rules 1987 r 6(b)); (2) references to the authority for which the election was held are to be taken as references to the parish and references to the area thereof are to be construed accordingly, except in the Representation of the People Act 1983 s 130(6) (place of trial of petition: see para 804 post) (Parish and Community Meetings (Polls) Rules 1987 r 6(c)); (3) the amount of security for costs is reduced (see para 794 post) (r 6(f)); and (4) references to an election under the local government Act are to be deemed to include a reference to a poll consequent on a parish or community meeting (r 6(g)). As to the rules for polls consequent on a parish or community meeting generally see para 388 ante. For the meaning of 'election under the local government Act' see para 10 note 2 ante.

Although all polls consequent on a parish or community meeting must be conducted by ballot (see the Local Government Act 1972 Sch 12 para 18(5), 34(5) (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 258), not all such polls relate to the election of officials, to which alone the statutory provisions as to the questioning of elections apply and the provisions do not apply to polls on a question other than a question of appointment to an office: Parish and Community Meetings (Polls) Rules 1987 r 6(a). As to the election of the chairman of a parish meeting see the Local Government Act 1972 ss 15(10), 88(3), Sch 12 paras 17, 33; and see para 207 ante. Although Sch 12 para 17(3) refers to the appointment of the chairman of a parish meeting and Sch 12 para 17(2) to the chairman being chosen, it is submitted that it is not intended to draw a distinction between his election and his being appointed or chosen: see the Representation of the People Act 1983 s 187(1). A parish or community meeting may have the right to elect to other offices, such as that of a charity trustee: see CHARITIES vol 5(2) (2001 Reissue) para 241.

6 For the meanings of 'elected executive member' and 'elected mayor' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 227. As to elections for the return of a local authority mayor see para 205 et seq ante. At the date at which this volume states the law, no provision had been made in relation to the return of executive members in England and Wales.

7 See note 1 supra.

8 See the Local Government Act 2000 s 44(4); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 227. Accordingly, for the purposes of s 44(4), the Representation of the People Act 1983 Pt III (as amended) has effect in relation to the questioning of an election for the return of an elected mayor as it has effect in relation to the questioning of an election under the local government Act: Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 6.

9 See para 764 post.

762. Questioning elections to the National Assembly for Wales. No Welsh Assembly election[1] and no return[2] to the National Assembly for Wales may be questioned except by a petition complaining of an undue election or undue return (an 'Assembly election petition')[3] presented in accordance with the statutory provisions[4].

A petition complaining of no return is deemed to be an Assembly election petition and the High Court may make such order on the petition as it thinks expedient for compelling a return to be made[5] or may allow the petition to be heard by an election court[6] as provided with respect to ordinary Assembly election petitions[7]. A Welsh Assembly election can be declared invalid on the ground of irregularities on the part of election officials if it appears to the court that the election was not so conducted as to be substantially in accordance with the law as to elections or that the irregularities affected the result[8].

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.

2 For these purposes, the expression 'return' as the context requires refers to a return following an Assembly election or to a return under the Government of Wales Act 1998 s 9 (election to fill a vacancy in an electoral region seat: see para 222 ante): National Assembly for Wales (Representation of the

People) Order 2003, SI 2003/284, art 85(3). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11; and para 222 ante.

3 'Assembly election petition' includes a petition complaining of an undue return under the Government of Wales Act 1998 s 9 (election to fill a vacancy in an electoral region seat: see para 222 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 85(1). See note 2 supra.

4 Ibid art 85(1). The text refers to the provisions of Pt IV (arts 85–137) (as amended) (see also para 765 et seq post).

5 Ibid art 85(2)(a).

6 For these purposes, 'election court' means the judges presiding at the trial of an Assembly election petition: ibid art 2(1).

7 Ibid art 85(2)(b).

8 See ibid art 16(3); and para 362 ante.

763. Questioning European parliamentary elections. No European parliamentary election[1] and no declaration of the result by the returning officer[2] may be questioned except by a petition complaining of an undue election or undue declaration (a 'European parliamentary election petition') presented in accordance with the statutory provisions[3].

A petition complaining that no declaration of the result has been given by the returning officer is deemed to be a European parliamentary election petition and the High Court may make such order on the petition as it thinks expedient for compelling a declaration of the result to be made[4] or it may allow the petition to be heard by an election court as provided with respect to ordinary European parliamentary election petitions[5].

No European parliamentary election petition may be brought on the grounds of the commission of corrupt or illegal practices, except on grounds of personation or other voting offences[6], or where an application may be made[7] for a declaration that a person who purports to be a member of the European Parliament ('MEP') for a particular electoral region is disqualified or was so disqualified at the time when, or at some time since, he was returned as an MEP[8]. A European parliamentary election can be declared invalid on the ground of irregularities on the part of election officials if it appears to the court that the election was not so conducted as to be substantially in accordance with the law as to elections or that the irregularities affected the result[9].

1 As to European parliamentary elections see para 224 et seq ante.

2 Ie under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 56 (see para 491 ante).

3 Ibid reg 88(1). The text refers to the provisions of Pt 4 (regs 86–122) (as amended) (see para 765 et seq post).

4 Ibid reg 88(2)(a).

5 Ibid reg 88(2)(b).

6 Ibid reg 88(3). The text refers to the grounds of the commission of corrupt or illegal practices set out in reg 23 (personation: see para 733 ante) and reg 24 (as amended) (voting offences which are illegal practices: see para 703 ante).

7 Ie under the European Parliamentary Elections Act 2002 s 11 (as amended) (see para 235 ante).

8 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 88(4).

9 See ibid reg 9(5); and para 365 ante.

764. Questioning local authority referendums. A local authority referendum[1] may be questioned by petition (a 'referendum petition'): (1) on the ground that the result of the referendum was not in accordance with the votes cast[2]; (2) on the ground that the referendum was avoided by corrupt or illegal practices[3]; (3) on the grounds that corrupt or illegal practices or illegal payments, employments or hirings, committed with reference to the referendum for the purpose of promoting or procuring a particular

result in the referendum, have so extensively prevailed that they may be reasonably supposed to have affected the result[4]; or (4) subject to head (3) above, on the ground that a payment of money or other reward has been made or promised since the referendum in pursuance of a corrupt or illegal practice relevant to local authority referendums[5]. Certain provisions of the Representation of the People Act 1983[6] which apply to the questioning of an election under the Local Government Act 1972[7] have effect, subject to minor modification, in relation to the questioning of a local authority referendum[8].

Where a referendum petition is presented on any of the grounds specified in heads (1) to (3) above (or where leave is granted for the presentation of a referendum petition) in relation to a local authority referendum at which the question asked relates to proposals involving a leader and cabinet executive[9] and in which the majority of the votes cast are 'yes' votes[10], then: (a) if the petition is presented before the authority has passed the resolution required enabling it to operate the executive arrangements that were the subject of the referendum[11], the authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition[12]; and (b) if the petition is presented after the authority has passed the resolution so required[13], the authority must continue to operate the executive arrangements that are the subject of that resolution[14].

Where a referendum petition is presented on any of the grounds specified in heads (1) to (3) above (or where leave is granted for the presentation of a referendum petition) in relation to a local authority referendum at which the question asked relates to proposals involving either a mayor and cabinet executive[15] or a mayor and council manager executive[16] and in which the majority of the votes cast are 'yes' votes[17], and without an election for the return of an elected mayor having taken place in consequence of the referendum[18], the local authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition[19]. Where leave is granted for the presentation of a referendum petition at which the question asked relates to proposals involving either a mayor and cabinet executive[20] or a mayor and council manager executive[21] and in which the majority of the votes cast are 'yes' votes[22], and after an election for the return of an elected mayor has taken place in consequence of the referendum[23], the elected mayor must continue in office[24].

Where a referendum petition is presented on any of the grounds specified in heads (1) to (3) above (or where leave is granted for the presentation of a referendum petition) in relation to a local authority referendum in which the majority of the votes cast are 'no' votes[25], and where the local authority's outline fall-back proposals[26] are based on the executive or alternative arrangements[27] which it was operating at the date of the referendum[28], it must continue to operate those arrangements[29]. However, where a referendum petition is presented on any of the grounds specified in heads (1) to (3) above (or where leave is granted for the presentation of a referendum petition) in relation to a referendum in which the majority of the votes cast are 'no' votes[30]: (i) if the petition is presented before the local authority has passed the resolution required enabling it to operate either the executive arrangements that were the subject of the referendum[31] or the existing alternative arrangements[32], the local authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition[33]; and (ii) if the petition is presented after the local authority has passed either such resolution[34], the local authority must continue to operate the executive arrangements or, as the case may be, the alternative arrangements that are the subject of that resolution[35].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(a).

3 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(b). The text refers to such corrupt or illegal practices within the meaning of the Representation of the People Act 1983 as are relevant to referendums by virtue of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 8, 19(8) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 8, 15(8) (see the text and notes 6–8 infra).

4 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(c); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(c). The text refers to the grounds provided by the Representation of the People Act 1983 s 164 (avoidance of election for general corruption etc: see para 893 post), as applied for these purposes, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8) and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8) (see the text and notes 6–8 infra).

5 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(d); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(d). The text refers to a corrupt or illegal practice relevant to referendums by virtue of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 8, 19(8) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 8, 15(8) (see the text and notes 6–8 infra).

6 Ie certain provisions of the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (legal proceedings) as set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5.

7 As to the questioning of an election under the Local Government Act 1972 see para 760 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

8 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8). The text refers to specified provisions of the Representation of the People Act 1983 (as to which see note 6 supra) having effect subject to the modifications set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8(1)(a)–(p) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8(1)(a)–(p) and subject to the substitution for 'an election petition', wherever that term appears, of 'a referendum petition' (plus the words, in relation to England, 'under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298' and, in relation to Wales 'under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870') and subject to the further modifications set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 6 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 5: see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8); and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8).

9 Ie if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 3 or, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 3 (see para 577 ante). For the meaning of 'leader and cabinet executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.

10 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(1)(a), (2)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(1)(a), (2)(a).

11 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(1)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(1)(b). The text refers to the resolution required under the Local Government Act 2000 s 29 (as to which see LOCAL GOVERNMENT vol 29(1) (Reissue) para 218): see para 659 ante.

12 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(1).

13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(2)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(2)(b).

14 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(2).
15 Ie if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 1 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 1 (see para 577 ante). For the meaning of 'mayor and cabinet executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.
16 Ie if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 2 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 2 (see para 577 ante). For the meaning of 'mayor and council manager executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.
17 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(3)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(3)(a).
18 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(3)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(3)(b).
19 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(3).
20 See note 15 supra.
21 See note 16 supra.
22 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(4)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(4)(a).
23 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(4)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(4)(b).
24 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(4).
25 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(5)(a).
26 For the meaning of 'outline fall-back proposals' in relation to England and Wales see para 576 note 8 ante.
27 For the meaning of 'existing executive arrangements' see para 563 note 10 ante. As to alternative arrangements see LOCAL GOVERNMENT vol 29(1) (Reissue) para 231.
28 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(5)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(5)(b).
29 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(5); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(5).
30 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(6)(a), (7)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(6)(a), (7)(a).
31 Ie the resolution required under the Local Government Act 2000 s 29 (as to which see LOCAL GOVERNMENT vol 29(1) (Reissue) para 218): see para 659 ante.
32 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(6)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(6)(b). The text refers to the resolution required under the Local Government Act 2000 s 33: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 233.
33 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(6).
34 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(7)(b); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(7)(b).
35 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(7).

765. Election petition rules. The authority having power to make rules of court for the Supreme Court may make rules for the purposes of election petitions[1]. The power is exercisable by statutory instrument[2] which is subject to annulment in pursuance of a resolution of either House of Parliament[3].

Subject to the provisions of the Representation of the People Act 1983[4] (and, in relation to a Welsh Assembly election, the rules provided as to the conduct of elections for the return of Assembly members[5] and, in relation to a European parliamentary election, the European parliamentary elections rules[6]) and subject to the rules governing the procedure for petitions[7], the practice and procedure of the High Court apply to a

petition as if it were an ordinary claim within the High Court's jurisdiction, notwithstanding any different practice, principle or rule on which the committees of the House of Commons used to act in dealing with such petitions[8].

1 Representation of the People Act 1983 s 182(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 120(1). Rules of court mean either election petition rules made or rules having effect as if made under the Representation of the People Act 1983 s 182 (prospectively amended) or rules of the Supreme Court made or having effect as if made under the Supreme Court Act 1981 s 84 (as amended) (see COURTS vol 10 (Reissue) paras 577–578): see the Interpretation Act 1978 s 5, Sch 1.

As from a day to be appointed under the Constitutional Reform Act 2005 s 148(1), the reference in the Representation of the People Act 1983 s 182(1) to the Supreme Court is replaced by a reference to the Senior Courts: see s 182(1) (prospectively amended by the Constitutional Reform Act 2005 s 59(5), Sch 11 para 28(1), (3)(a)). At the date at which this volume states the law, no such day had been appointed.

2 For the purposes of the Statutory Instruments Act 1946 (see STATUTES vol 44(1) (Reissue) para 1503), this power is to be treated as if conferred on a Minister of the Crown: Representation of the People Act 1983 s 182(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 120(2)(a).

3 Representation of the People Act 1983 s 182(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 120(2)(b). As respects parliamentary elections (see para 759 ante) and elections under the Local Government Act 1972 (see para 760 ante), the current rules are the Election Petition Rules 1960, SI 1960/543 (as amended). Those rules have effect in relation to a Welsh Assembly election petition (as to which see para 762 ante) as if made in the exercise of the power conferred by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 133(1), subject to the modifications set out in Sch 9: art 133(3). The Election Petition Rules 1960, SI 1960/543 (as amended) also have effect in relation to a local authority referendum petition (as to which see para 764 ante) as they have effect in relation to a local election petition within the meaning of those rules subject to the modifications set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 7 (see reg 19(9)) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 6 (see reg 15(9)). As respects European parliamentary elections (see para 763 ante), the current rules are, by virtue of the Interpretation Act 1978 s 17(2)(b), the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended).

4 Ie including those provisions applied and modified for the purposes of a local authority referendum (see para 764 ante).

5 Ie the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see para 388 ante).

6 For the meaning of 'European parliamentary elections rules' see para 388 ante.

7 See note 3 supra.

8 Election Petition Rules 1960, SI 1960/543, r 2(4) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(3) (amended by SI 1999/1398; SI 2004/1415); and see note 3 supra. As to the relevance of the principles, practice and rules on which committees of the House of Commons used to act see paras 769, 777, 815 post.

766. Mandatory time limits. Where the day or last day on which anything is required or permitted to be done by, or in pursuance of, the provisions governing the questioning of elections and referendums[1] is a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday[2] or any day appointed for public thanksgiving or mourning, the requirement or permission is deemed to relate to the first day after that which is not one of those days[3]. In computing any period of not more than seven days, any of those days is to be disregarded[4].

Any period of time prescribed by the rules governing the procedure for petitions[5] for the purposes of: (1) applications made by the petitioner to fix the amount of security for costs which he is to give[6]; (2) service by the petitioner on the respondent[7] and on the Director of Public Prosecutions of a notice of the presentation of the petition and of the nature and amount of the security which he has given[8]; and (3) service by the

respondent on the petitioner of any notice of his objection to a recognisance[9] and the issue and service on the petitioner of an application notice to determine the validity or otherwise of the objection[10], must be computed in accordance with the provisions set out above[11] and must not be varied by order or otherwise[12]. Accordingly, there is no scope available for a court to order service out of time under these provisions whose mandatory nature cannot be avoided[13] despite the draconian regime as regards time for service to which this gives rise[14].

Otherwise (that is, except for the purposes set out in heads (1) to (3) above) the relevant provisions of the Civil Procedure Rules[15] apply to any period of time prescribed by the rules which govern the procedure for petitions as if it were prescribed by the Civil Procedure Rules[16].

1 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (including those provisions as applied and modified) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85–137) (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86–122) (as amended) (see para 759 et seq ante).

2 For the meaning of 'bank holiday' for these purposes see para 237 note 11 ante.

3 Representation of the People Act 1983 s 186, applying s 119(1)(a), (2) (s 119(2) substituted by the Representation of the People Act 1985 s 19(4); and amended by the Electoral Administration Act 2006 ss 20, 74(2), Sch 1 paras 49, 51(1), Sch 2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 137, applying art 84(1)(a), (2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 87, applying reg 32(1)(a), (2).

Any amendment effected by the Electoral Administration Act 2006 Sch 1 paras 49, 51 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1. Accordingly, until that date, Maundy Thursday also appears in the days listed for the purposes of the Representation of the People Act 1983 s 119(2) (as amended).

4 Ibid s 186, applying s 119(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 137, applying art 84(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 87, applying reg 32(1)(b); and see note 3 supra.

5 As to the current rules see para 765 note 3 ante.

6 Ie for the purposes of the Election Petition Rules 1960, SI 1960/543, r 5 (as substituted and amended) or, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5 (as substituted and amended) (see para 794 post). The text refers to the amount of security for costs which the petitioner is to give pursuant to the Representation of the People Act 1983 s 136 (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91 or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94 (see para 794 post).

7 Ie within the meaning of the Representation of the People Act 1983 s 121(2) (parliamentary election petition: see para 780 post) or s 128(2) (local election petition: see para 789 post) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(2), (3) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(2) (see para 780 post).

8 Ie for the purposes of the Election Petition Rules 1960, SI 1960/543, r 6 (as substituted and amended) or, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6 (as substituted and amended) (see para 796 post).

9 Ie on any ground mentioned in the Representation of the People Act 1983 s 136(4) (as amended) or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(4) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(4) (see para 797 post).

10 Ie for the purposes of the Election Petition Rules 1960, SI 1960/543, r 7 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 7 (as amended) (see para 797 post).

11 Ie in accordance with the Representation of the People Act 1983 s 119 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 87.

12 Election Petition Rules 1960, SI 1960/543, r 19(1) (amended by SI 1985/1278; SI 1999/1352; SI 2003/972); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 18(1) (amended by SI 1988/557; SI 1999/1398; SI 2003/971; SI 2004/1415). Where any period of time limited by the Representation of the People Act 1983 (or, in relation to a European parliamentary election, by the European parliamentary elections rules) for presenting a petition or filing any document expires on a day (not being a day mentioned in the Representation of the People Act 1983 s 119 (as amended) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 32, as the case may be) on which the election petitions office is closed, the petition or document is deemed to be duly presented or filed if it is placed in the letter box provided for the purpose at that office and an affidavit stating the time at which this was done is filed on the next day on which the office is open: Election Petition Rules 1960, SI 1960/543, r 19(2) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 18(2) (amended by SI 2004/1415). 'Election petitions office' means the office of the Queen's Bench Masters' Secretary's Department at the Central Office of the Royal Courts of Justice: Election Petition Rules 1960, SI 1960/543, r 2(2) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(1). For the meaning of 'European parliamentary elections rules' see para 388 ante. The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions and local authority referendum petitions: see para 765 note 3 ante.

13 *Ahmed v Kennedy, Ullah v Pagel* [2002] EWCA Civ 1793, [2003] 2 All ER 440, [2003] 1 WLR 1820. The prescribed time mentioned in the Representation of the People Act 1983 s 136(3) (as substituted) (see para 796 post) is that prescribed by the Election Petition Rules 1960, SI 1960/543, r 6 (as substituted and amended) (see para 796 post); and r 19 (as amended) prohibits any enlargement of the time limit so prescribed (see head (2) in the text), the Election Petition Rules 1960, SI 1960/543, having primacy over the Civil Procedure Rules in this respect (as to which see the text and notes 15–16 infra): *Ahmed v Kennedy, Ullah v Pagel* supra, applying *Williams v Tenby Corpn* (1879) 5 CPD 135 (service of notice within the prescribed time was a condition precedent to the trial of an election petition) and approving *Absalom v Gillett* [1995] 2 All ER 661, [1995] 1 WLR 128 (petition served in relation to a City of London election). In the latter case, Laws J at 670, 136–137 cited *Carter v Griffiths* (28 July 1981, unreported) (rejecting a submission that the predecessor provisions to the Representation of the People Act 1983 s 136 were directory only), and noted that Ralph Gibson J in *Carter v Griffiths* supra cited *Devan Nair v Yong Kuan Teik* [1967] 2 AC 31 at 44–45, [1967] 2 All ER 34 at 40, PC, in a case concerning similar rules in respect of election petitions in Malaysia, where *Williams v Tenby Corpn* supra was stated to be 'plainly rightly decided'. *Devan Nair v Yong Kuan Teik* supra was considered to be highly persuasive in *Ahmed v Kennedy, Ullah v Pagel* supra, which also overruled *Young v Figgins, The Shrewsbury Petition* (1869) 19 LT 499 (in which a failure to serve a respondent was characterised as a 'formal objection' to be ignored under a rule in the Election Petition Rules 1868 (no equivalent to which survives in the Election Petition Rules 1960, SI 1960/543)). See also para 796 note 5 post.

14 *Absalom v Gillett* [1995] 2 All ER 661 at 672, [1995] 1 WLR 128 at 138 per Laws J (incompetent petition served in relation to a City of London election could not be amended and served again out of time although the petitioner's case had at least arguable merits; the public interest in the speedy determination of election disputes was readily acknowledged). Where a notice has been timeously served by a petitioner but it does not satisfy all the requirements of the Representation of the People Act 1983 s 136(3) (as substituted) (see para 796 post), the court will regard it as a complete failure to give the required notice within the prescribed time, and the petition will be struck out as being a nullity: Ahmed v Kennedy, Ullah v Pagel [2002] EWCA Civ 1793, [2003] 2 All ER 440, [2003] 1 WLR 1820, approving and applying Absalom v Gillett supra. Minor defects (such as those arising from typographical errors or mistakes in photocopying) might be remediable but the question of which errors are fatal, and which are remediable, will depend on the facts of each case: see *Ahmed v Kennedy* supra at [28] per Simon Brown LJ (obiter). *Ahmed v Kennedy* supra was applied in *Saghir v Najib* [2005] EWHC 417 (QB), [2005] All ER (D) 353 (Mar), where the petitioners' failure to place an amended petition on the court file was held to constitute a failure to serve properly notice of the petition together with a copy, and their failure to state, in the notice as to the nature and amount of security, the date on which security had actually been given also constituted a failure properly to serve that notice. In *Hussein v Khan* [2006] EWHC 262 (QB), [2006] All ER (D) 348 (Feb), a request for an extension of time was determined by considering not only the reasons for the delay but also the strength and merit of the case which the petition disclosed, an approach which was justified on the basis that two competing public interests were considered to be in play: firstly, that of ensuring the propriety and freedom from corruption of elections; and, secondly, that of ensuring that election petitions were dealt with speedily. On the facts of the case, however, the application was dismissed as disclosing no cause of action and because, given the time the petitioners had already had, it would not have been appropriate to permit them even more time to produce an amended petition.

15 Ie CPR 2.8–2.11 (calculation of time for doing any act specified by the Civil Procedure Rules: see PRACTICE AND PROCEDURE vol 37 (Reissue) paras 143–146) and CPR 3.1(2)(a) (court's power to

extend or shorten time for compliance: see PRACTICE AND PROCEDURE vol 37 (Reissue) paras 147, 452). As to the Civil Procedure Rules generally see PRACTICE AND PROCEDURE vol 37 (Reissue) para 51 et seq.

16 Election Petition Rules 1960, SI 1960/543, r 19(1) (amended by SI 1999/1352; SI 2003/972); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 18(1) (amended by SI 1999/1398; SI 2003/971); and see note 12 supra.

(ii) Election Court

A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS

767. Constitution of the court. A parliamentary, Welsh Assembly or European parliamentary election petition[1] is tried by two judges on the rota for the trial of parliamentary election petitions[2]. The judges to be placed on this rota in each year are to be selected, in such manner as may be provided by rules of court, from the judges of the Queen's Bench Division of the High Court exclusive of any who are members of the House of Lords[3]. A judge on the rota is eligible again in the succeeding or any subsequent year[4]. Notwithstanding the expiry of the year for which a judge has been placed on the rota he may act as if that year had not expired for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case with which he may have been concerned during that year[5].

The judges for the time being on the rota try the election petitions standing for trial according to their seniority unless they otherwise agree[6].

The judges presiding at the trial of an election petition are called 'the election court'[7].

1 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European Parliamentary election petitions see para 763 ante.

2 Representation of the People Act 1983 s 123(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91(1). As to the appointment of judges of the Supreme Court of Gibraltar for the trial of an election petition relating to the election of members of the European Parliament ('MEPs') in the combined region see the European Parliament (Representation) Act 2003 s 23. As to the combined region see para 76 ante.

3 Supreme Court Act 1981 s 142(1) (amended by the Representation of the People Act 1983 s 206, Sch 8 para 26). As from a day to be appointed, the Supreme Court Act 1981 is renamed the Senior Courts Act 1981: see the Constitutional Reform Act 2005 s 59(5), Sch 11 para 1. At the date at which this volume states the law, no such day had been appointed.

4 Supreme Court Act 1981 s 142(3). see note 3 supra.

5 Ibid s 142(2).

6 Representation of the People Act 1983 s 123(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91(1).

7 Representation of the People Act 1983 s 123(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91(1).

768. Appointment of masters. The duties to be performed in relation to parliamentary, Welsh Assembly or European parliamentary elections[1] by the prescribed officer[2] are to be performed by such one or more masters of the Supreme Court (Queen's Bench Division) as the Lord Chief Justice may determine[3].

The master of the Queen's Bench division who is for the time being so nominated[4] as the prescribed officer in relation to parliamentary elections is also to be the prescribed officer in relation to elections under the local government Act[5] and in relation to European parliamentary elections[6].

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meaning of 'parliamentary election' see para 9 ante. As to European parliamentary elections see para 224 et seq ante.

2 Ie, in relation to a parliamentary election, under the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85–137) (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86–122) (as amended) (see para 759 et seq ante).

3 Representation of the People Act 1983 s 157(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(3).

As from a day to be appointed under the Constitutional Reform Act 2005 s 148(1), the reference in the Representation of the People Act 1983 s 157(4) to the Supreme Court (Queen's Bench Division) is replaced by a reference to the Senior Courts (Queen's Bench Division): see s 157(4) (prospectively amended by the Constitutional Reform Act 2005 s 59(5), Sch 11 para 28(1), (2)(a)). At the date at which this volume states the law, no such day had been appointed.

4 Ie under the Representation of the People Act 1983 s 157(4) (prospectively amended) (see the text and notes 1–3 supra).

5 See para 790 post.

6 Election Petition Rules 1960, SI 1960/543, r 2(3) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(2) (amended by virtue of the European Communities (Amendment) Act 1986 s 3; and by SI 1988/557; SI 2004/1415). References to the prescribed officer in the rules governing the procedure for petitions must be construed accordingly: Election Petition Rules 1960, SI 1960/543, r 2(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(2). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see para 765 note 3 ante.

769. Jurisdiction, status and practice of the election court. Subject to the relevant provisions governing elections[1], the election court has the same powers, jurisdiction and authority as a High Court judge; and the election court[2] is a court of record[3]. Subject to those provisions and the rules made thereunder[4], the principles, practice and rules on which committees of the House of Commons used to act in dealing with election petitions are to be observed, so far as may be, by the High Court and election court in the case of parliamentary or Welsh Assembly election petitions[5].

Where the petition alleges the commission of corrupt or illegal practices, the election court has quasi-inquisitorial as well as judicial duties, as the court must investigate and report whether any corrupt or illegal practices have been committed by, or with the consent of, the candidate, or by any other person, or whether they have extensively prevailed[6].

1 Ie, in relation to a parliamentary election, the Representation of the People Act 1983 or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293.

2 For the meaning of 'election court' for these purposes see para 767 ante.

3 Representation of the People Act 1983 s 123(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91(2). It is uncertain whether judicial review is available as respects the determination of an election court. In *R v Election Court, ex p Sheppard* [1975] 2 All ER 723 at 725, [1975] 1 WLR 1319 at 1323, DC, Lord Widgery CJ said (obiter) that 'it is quite clear that the election court which deals with parliamentary elections, consisting, as it will do, of a Queen's Bench judge, is a superior court and it is clear that no question of the prerogative orders could be available'. In *R v Cripps, ex p Muldoon* [1984] QB 68 at 88, [1983] 3 All ER 72 at 83, DC, Robert Goff LJ left open this question but doubted (obiter) whether the fact that the court consists of a High Court judge was conclusive of the question; however, on appeal, this question was left open (see [1984] QB 686 at 698, [1984] 2 All ER 705 at 712, CA, per Sir John Donaldson MR). See also para 777 note 3 post.

4 As to the current rules see para 765 note 3 ante.

5 Representation of the People Act 1983 s 157(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(2). As to parliamentary election petitions see para 759 ante; and as to Welsh Assembly election petitions see para 762 ante. There is no equivalent provision for the

purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.

6 See para 857 post.

770. Jurisdiction of judges on rota and master. An application for leave to pay claims for election expenses sent in too late[1], and an application for an injunction to restrain the publication of false statements about a candidate[2], must, in so far as application is made to the High Court, be heard by one of the judges on the rota or by a master[3]. An application to amend a parliamentary election petition[4] and an application for the remission of incapacities on the ground that the evidence was perjured[5] must be heard by one of the judges on the rota or by a master. Certain other matters may, in so far as application is made to the High Court[6], be heard only by one of the judges on the rota and not by a master. They are as follows: an application for relief in respect of failure to make the return and declaration as to election expenses[7]; and an application to except an innocent act from being an illegal practice, payment, employment or hiring[8]. In all the foregoing cases the jurisdiction is subject to rules of court[9].

If practicable, any jurisdiction conferred on a judge by the Election Petition Rules 1960[10] or the European Parliamentary Election Petition Rules 1979[11] is to be exercised by a rota judge, and, if not, by some other judge of the Queen's Bench Division[12], and any jurisdiction conferred by those rules on a master is to be exercised by the prescribed officer[13] or in his absence by some other master of the Queen's Bench Division[14]. If practicable, matters relating to the trial of a petition, and most questions of an interim nature, should be heard by one of the judges on the rota[15].

1 See para 281 ante.

2 See para 669 ante.

3 As to the rota see para 767 ante. Application may be made to the county court instead: see paras 281, 669 ante.

4 See para 792 post.

5 As to the mitigation and remission of incapacities see para 907 post.

6 As to applications to the county court in these matters see paras 691, 693 ante.

7 See para 691 ante.

8 See para 693 ante.

9 Rules of court mean either election petition rules made or having effect as if made under the Representation of the People Act 1983 s 182 (prospectively amended) (see para 765 ante), or rules of the Supreme Court made or having effect as if made under the Supreme Court Act 1981 s 84 (as amended) (see COURTS vol 10 (Reissue) paras 577–578): see the Interpretation Act 1978 s 5, Sch 1. The rules of the Supreme Court provide that proceedings in the High Court under the Representation of the People Acts are to be assigned to the Queen's Bench Division (CPR Sch 1 RSC Ord 94 r 5(1)) and the jurisdiction of the High Court under those Acts in matters relating to parliamentary and local government elections is in general to be exercised by a Divisional Court (CPR Sch 1 RSC Ord 94 r 5(2)), but this does not take away from a single judge or master any jurisdiction under those Acts which would be otherwise exercisable by a single judge or, as the case may be, by a master (CPR Sch 1 RSC Ord 94 r 5(3)). Where the jurisdiction of the High Court is by a provision of any of those Acts made exercisable in matters relating to parliamentary elections by a single judge, that jurisdiction in matters relating to local government elections is also to be exercisable by a single judge: CPR Sch 1 RSC Ord 94 r 5(4). For the meaning of 'the Representation of the People Acts' see para 3 note 1 ante. As from a day to be appointed, the Supreme Court is renamed the Senior Courts, and the Supreme Court Act 1981 is renamed the Senior Courts Act 1981: see the Constitutional Reform Act 2005 s 59(1), (5), Sch 11 para 1. At the date at which this volume states the law, no such day had been appointed.

10 Ie the Election Petition Rules 1960, SI 1960/543 (as amended).

11 Ie the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended).

12 Election Petition Rules 1960, SI 1960/543, r 3(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 3(1). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see para 765 note 3 ante.

13 As to the prescribed officer see para 768 ante.

14 Election Petition Rules 1960, SI 1960/543, r 3(2) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 3(2) (amended by the European Communities (Amendment) Act 1986 s 3; and by SI 1988/557); and see note 12 supra.

15 See *Shaw v Reckitt (Pontefract Election Petition)* [1893] 1 QB 779; on appeal [1893] 2 QB 59, CA (parliamentary election petition). See also para 784 note 3 post.

771. Registrar. The rota judge[1] fixing the time and place of trial of a parliamentary, Welsh Assembly or European parliamentary election petition[2] must also appoint an officer of the Supreme Court to act as registrar of the election court[3] for the purposes of the trial[4].

1 As to the rota see para 767 ante.
2 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. As to the fixing of the time and place of trial see para 804 post.
3 For the meaning of 'election court' for these purposes see para 767 ante.
4 Election Petition Rules 1960, SI 1960/543, r 9(5) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(4) (amended by the European Communities (Amendment) Act 1986 s 3). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see para 765 note 3 ante.

772. Payment of expenses. The travelling and other expenses of the judges trying a parliamentary, Welsh Assembly or European parliamentary election petition[1], and all expenses properly incurred in providing them with necessary accommodation and with a proper court, are defrayed by the Treasury[2] (or, in the case of a Welsh Assembly election, the Secretary of State[3]) out of money provided by Parliament[4].

1 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. As to the fixing of the time and place of trial see para 804 post.
2 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.
3 As to the Secretary of State see para 2 ante.
4 Representation of the People Act 1983 s 124 (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 45, Sch 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 89; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 92.

B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS

773. Constitution of the court. A petition questioning a local authority referendum[1] or an election under the Local Government Act 1972[2] is tried by an election court consisting of a person qualified and appointed as follows[3].

A person is not qualified to constitute an election court[4]: (1) unless he has a 10-year High Court qualification[5]; or (2) if the court is for the trial of an election or referendum petition (as the case may be) relating to any local government area[6] in which he resides[7].

The judges for the time being on the rota for the trial of parliamentary election petitions[8], or any two of those judges[9]: (a) may annually appoint as many qualified persons, not exceeding five, as they may think necessary as commissioners for the trial of petitions questioning a local authority referendum or elections under the Local Government Act 1972 (as the case may be)[10]; and (b) must from time to time assign the petitions to be tried by each commissioner[11].

If a commissioner to whom the trial of a petition is assigned dies, or becomes incapable of acting or declines to act, the rota judges (or two of them) may assign the trial to be conducted or continued by another of the commissioners so appointed[12].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.
3 Representation of the People Act 1983 s 130(1) (s 130(1)–(3) amended by the Courts and Legal Services Act 1990 s 71(2), Sch 10 para 50); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(7).
4 Representation of the People Act 1983 s 130(2) (as amended: see note 3 supra); and see note 1 supra.
5 Ibid s 130(2)(a) (substituted by the Courts and Legal Services Act 1990 Sch 10 para 50(2)); and see note 1 supra. The text refers to a High Court qualification within the meaning of the Courts and Legal Services Act 1990 s 71 (as amended) (see COURTS vol 10 (Reissue) para 515).
6 For the meaning of 'local government area' see para 18 note 2 ante.
7 Representation of the People Act 1983 s 130(2)(b) (amended by the Political Parties, Elections and Referendums Act 2000 s 137(a), Sch 17 paras 1, 2); and see note 1 supra.
8 As to the rota for the trial of parliamentary election petitions see para 767 ante.
9 Representation of the People Act 1983 s 130(3); and see note 1 supra.
10 Ibid s 130(3)(a) (as amended: see note 3 supra); and see note 1 supra.
11 Ibid s 130(3)(b); and see note 1 supra.
12 Ibid s 130(4); and see note 1 supra.

774. Court officers. The election court may employ officers and clerks as prescribed[1]. The rota judge fixing the time and place of trial of a petition questioning a local authority referendum[2] or an election under the Local Government Act 1972[3] must appoint an officer of the Supreme Court to act as registrar of the election court for the purposes of the trial[4].

A shorthand writer must also attend the trial of a local election or local authority referendum petition[5]. This officer is appointed by the commissioner to whom the trial is assigned and he is entitled to be paid expenses on the same scale as a shorthand writer attending the trial of an action in the Queen's Bench Division[6]. The commissioner may also appoint a proper person to act as his clerk for the purposes of the trial[7].

1 Representation of the People Act 1983 s 131(2); and see note 2 infra. 'Prescribed' means prescribed by rules of court: s 185. As to the current rules see para 765 note 3 ante.
2 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to the rota see para 767 ante.
3 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.
4 Election Petition Rules 1960, SI 1960/543, r 9(5) (amended by SI 1985/1278). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied and modified for the purposes of a local authority referendum petition: see para 765 note 3 ante.
5 Representation of the People Act 1983 s 131(3); and see note 2 supra. As to the shorthand writer's expenses see para 776 post; and as to his duties see para 816 post.
6 Election Petition Rules 1960, SI 1960/543, r 18(1) (amended by SI 1985/1278); and see note 4 supra.
7 Ibid r 18(2); and see note 4 supra.

775. Court accommodation and attendance; repayment of expenses. The proper officer[1] of the authority for which the local government election[2] or local authority referendum[3] was held (or, in the case of a parish or community election, the returning officer at that election[4]) must provide suitable accommodation for holding the election court[5], and any expenses incurred by him for this purpose must be paid by that authority[6].

The election court appointed for the trial of a petition questioning a local authority referendum or an election under the Local Government Act 1972[7] may, in its discretion, order that the expenses incurred by the proper officer of the authority in receiving the

election court, be repaid wholly or in part to the proper officer[8]: (1) by the petitioner, if in the opinion of the election court the petition is frivolous and vexatious[9]; or (2) by the respondent, when in the opinion of the election court he has been personally guilty of corrupt practices at the election or referendum (as the case may be)[10]. Such an order may be enforced as an order for payment of costs[11], but a deposit made or a security given[12] is not to be applied for any such repayment to the proper officer until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied[13].

All constables and bailiffs must give their assistance to the court in the execution of its duties[14].

1 For the meaning of 'proper officer' see para 155 note 2 ante.

2 For the meaning of 'local government election' see para 10 ante.

3 For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

4 See the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 6(a). The returning officer at a parish or community election is an officer of the council of the district in which the parish or community is situated (see para 359 ante), but it is submitted that this does not result in a shift of the financial burden of the expenses from the parish or community to the district. As to the application of the provisions questioning local elections to parish or community elections see para 761 ante.

5 Ie as constituted under the Representation of the People Act 1983 s 130 (as amended) (see para 773 ante), including that provision as applied (see note 3 supra).

6 Ibid s 131(1); and see note 3 supra.

7 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.

8 Representation of the People Act 1983 s 133(1); and see note 3 supra.

9 Ibid s 133(1)(i); and see note 3 supra.

10 Ibid s 133(1)(ii); and see note 3 supra.

11 Ibid s 133(2); and see note 3 supra. As to the recovery of costs see para 878 post.

12 As to the making of deposits or the giving of security for costs see paras 794–796 post.

13 Representation of the People Act 1983 s 133(2); and see note 3 supra.

14 Ibid s 131(2); and see note 3 supra.

776. Remuneration of commissioner and staff; repayment of expenses. The remuneration and allowances to be paid to the commissioner for his services in respect of the trial of a petition questioning a local authority referendum[1] or an election under the Local Government Act 1972[2], and to any officers, clerks or shorthand writers[3] employed in relation to the trial, are fixed by a scale, which is made and may be varied by the judges on the rota for the trial of parliamentary election petitions[4], with Treasury approval[5]. The remuneration and allowances are paid in the first instance by the Treasury, but they must be repaid to the Treasury on its certificate by the authority for which the election or referendum (as the case may be) was held[6].

The election court appointed for the trial of a petition questioning a local authority referendum or an election under the Local Government Act 1972[7] may, in its discretion, order that the remuneration and allowances payable to the commissioner in respect of the trial of an election or referendum petition (as the case may be), and to any officers, clerks or shorthand writers be repaid wholly or in part to the Treasury[8]: (1) by the petitioner, if in the opinion of the election court the petition is frivolous and vexatious[9]; or (2) by the respondent, when in the opinion of the election court he has been personally guilty of corrupt practices at the election or referendum (as the case may be)[10]. Such an order may be enforced as an order for payment of costs[11], but a deposit

made or a security given[12] is not to be applied for any such repayment to the Treasury until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied[13].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.
3 As to the appointment of the shorthand writer see para 774 ante. His expenses are treated as part of the expenses in receiving the election court: Representation of the People Act 1983 s 131(3); and see note 1 supra.
4 As to the rota for the trial of parliamentary election petitions see para 767 ante.
5 Representation of the People Act 1983 s 132(1); and see note 1 supra. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.
6 Ibid s 132(2); and see note 1 supra. Application is made to the Treasury Commissioners and should be accompanied by an account setting out the remuneration earned.
7 As to the constitution of the court see para 773 ante.
8 Representation of the People Act 1983 s 133(1); and see note 1 supra.
9 Ibid s 133(1)(i); and see note 1 supra.
10 Ibid s 133(1)(ii); and see note 1 supra.
11 Ibid s 133(2); and see note 1 supra. As to the recovery of costs see para 878 post.
12 As to the making of deposits or the giving of security for costs see paras 794–796 post.
13 Representation of the People Act 1983 s 133(2); and see note 1 supra.

777. Election court's jurisdiction. For the purposes of the trial of a petition questioning a local authority referendum[1] or an election under the Local Government Act 1972[2], the election court has the same powers and privileges as a judge on the trial of a parliamentary election petition[3]. However, it is probable that these powers are inapplicable once the trial has been concluded[4].

Where the petition alleges the commission of corrupt or illegal practices, the election court has quasi-inquisitorial, as well as judicial, duties, as the court must investigate and report whether any corrupt or illegal practices have been committed (and by whom) or whether they have extensively prevailed[5].

Any jurisdiction conferred on a judge by the Election Petition Rules 1960[6] should, where practicable, be exercised by a judge on the rota for the trial of parliamentary election petitions[7] and, if not, by some other judge of the Queen's Bench Division[8]. Any such jurisdiction conferred by those rules on a master is exercised by the prescribed officer[9] or, in his absence, by some other master of the Queen's Bench Division[10].

Subject to the provisions of the Representation of the People Act 1983 and of the rules made under it[11], the principles, practice and rules on which committees of the House of Commons used to act in dealing with election petitions must be observed, so far as may be, by the High Court and election court in the case of petitions questioning elections under the Local Government Act 1972[12].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.

3 Representation of the People Act 1983 s 130(5); and see note 1 supra. As to the trial of parliamentary election petitions see para 767 et seq ante. It was on the basis of this provision in an earlier enactment that it was held that the local election court was a court of record: *R v Maidenhead Corpn* (1882) 9 QBD 494 at 500, CA, per Jessell MR. That case was not referred to in the judgment in *R v Cripps, ex p Muldoon* [1984] QB 68, [1983] 2 All ER 72, DC, where it was held that the election court was an inferior court subject to judicial review by the High Court; however, on appeal, this point was left open since, on the facts of the case, the High Court could exercise jurisdiction anyway in respect of an order as to costs, and it was said that it was 'unnecessary to reach any decision as to the jurisdiction of the Divisional Court in relation to the work of a local election court. That jurisdiction depends on the local election court being an 'inferior court' and not a 'superior court of record' (see [1984] QB 686 at 698, [1984] 2 All ER 705 at 712, CA, per Sir John Donaldson MR). More recently, it has become accepted that the decision of an election commissioner sitting as a local election court is susceptible to judicial review: see eg *R v Rowe, ex p Mainwaring* [1992] 4 All ER 821, [1992] 1 WLR 1059, CA (a case on appeal from the Divisional Court which had judicially reviewed the decision of an election commissioner); and see *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823.

4 *R v Cripps, ex p Muldoon* [1984] QB 686 at 697, [1984] 2 All ER 705 at 712, CA, per Sir John Donaldson MR. These remarks were in the context of the exercise of the 'slip rule' power of the High Court which, in the view of the Court of Appeal, had been imported by virtue of the Representation of the People Act 1983 s 130(5). But the variation in the order as to costs which the commissioner had purported to make after the trial of the local election petition in that case had been concluded did not in any event fall within the slip rule because it made a substantial alteration and did not correct an ambiguity. The Court of Appeal pointed to a judge's power to reconsider or vary prior to the conclusion of a trial apart from the slip rule: *R v Cripps, ex p Muldoon* supra at 695 and 710 per Sir John Donaldson MR. However, 'once the order has been perfected the trial judge is *functus officio* and in his capacity as the trial judge has no further power to reconsider or vary his decision whether under the slip rule or otherwise': *R v Cripps, ex p Muldoon* supra at 695 and 710 per Sir John Donaldson MR.

5 See paras 818, 860 post.

6 Ie the Election Petition Rules 1960, SI 1960/543 (as amended).

7 As to the rota for the trial of parliamentary election petitions see para 767 ante.

8 Election Petition Rules 1960, SI 1960/543, rr 2(2), 3(1). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied and modified for the purposes of a local authority referendum petition: see para 765 note 3 ante.

9 As to the prescribed officer see para 768 ante.

10 Election Petition Rules 1960, SI 1960/543, r 3(2) (as amended by SI 1985/1278); and see note 8 supra.

11 Ie the Election Petition Rules 1960, SI 1960/543 (see para 765 ante), including those rules as applied (see note 8 supra). As to practice and procedure on the hearing see further para 815 post.

12 Representation of the People Act 1983 s 157(2); and see note 1 supra.

(iii) Petitions

A. PARLIAMENTARY, NATIONAL ASSEMBLY FOR WALES AND EUROPEAN PARLIAMENTARY ELECTIONS

778. Form and contents of election petition. A parliamentary, Welsh Assembly or European parliamentary election petition[1] must be in the prescribed form[2], and must state: (1) in which capacity the petitioner or each of the petitioners presents the petition[3]; (2) the date and result of the election to which the petition relates, and, in the case of a parliamentary or Welsh Assembly election petition, the date on which the return was made to the Clerk of the Crown or to the National Assembly for Wales (as the case may be) of the member declared to have been elected[4]; (3) in the case of a petition alleging corrupt or illegal practices[5], the date from which the time for the presentation of the petition is to be calculated[6]; and (4) the grounds on which relief is sought, setting out with sufficient particularity the facts relied on but not the evidence by which they are to be proved[7]. It is sufficient for the petition to allege the grounds generally, and a petition alleging that the respondent and his agents are charged with bribery, corruption and undue influence, and also with illegal practices, would in form be sufficient[8]. A general allegation in a petition must not, however, be so worded as effectively to include acts not committed until after the presentation of the petition, and

if the petitioner proposes to proceed upon charges of any such acts, he must amend the petition[9]. The petition must conclude with a prayer setting out particulars of the relief claimed[10], and must be signed by the petitioner or all the petitioners if more than one[11].

1 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

2 Representation of the People Act 1983 s 121(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(3). In the case of a parliamentary election, the petition must be in the form set out in the Election Petition Rules 1960, SI 1960/543, Schedule (amended by SI 1985/1278), or a form to the like effect with such variations as the circumstances may require: Election Petition Rules 1960, SI 1960/543, r 4(1). In the case of a European parliamentary election, the petition must be in the form set out in the European Parliamentary Election Petition Rules 1979, SI 1979/521, Schedule (amended by SI 2004/1415), or a form to the like effect with such variations as the circumstances may require: European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see para 765 note 3 ante.

3 Election Petition Rules 1960, SI 1960/543, r 4(1)(a) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1)(a) (amended by SI 2004/1415); and see note 2 supra. As to the persons who may present a petition see para 779 post.

4 Election Petition Rules 1960, SI 1960/543, r 4(1)(b); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1)(b); and see note 2 supra. In the case of a Welsh Assembly election, provision is made also for a petition relating to a return under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see para 222 ante), in which case the date on which the person was treated as declared to be returned as an Assembly member must be specified: Election Petition Rules 1960, SI 1960/543, r 4(1)(ba) (r 4 as applied and modified: see note 2 supra). As to the making of the return to the Clerk of the Crown see para 479 ante; and as to the return made to the National Assembly for Wales see para 487 ante. The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and para 222 ante.

5 Ie a petition mentioned in the Representation of the People Act 1983 s 122(2), (3) (see para 783 post). There is no provision equivalent to head (3) in the text for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.

6 Election Petition Rules 1960, SI 1960/543, r 4(1)(c) (amended by SI 1985/1278); and see note 2 supra. As to the time for the presentation of an election petition in such a case see para 783 post.

7 Election Petition Rules 1960, SI 1960/543, r 4(1)(d); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1)(d); and see note 2 supra. As to the ordering of particulars see paras 806–808 post.

8 *Beal v Smith* (1869) LR 4 CP 145; *Greenock Election Petition* (1868) reported in footnote to *Beal v Smith* supra at 150; *Lancaster County, Lancaster Division Case* (1896) 5 O'M & H 39 at 41 per Bruce J, who at 41–42 expressed an opinion in favour of the general character of the offences charged being set out in separate paragraphs instead of a general allegation of corrupt and illegal practices. Such a form has the advantage of not affording occasion for an order for the immediate service of particulars.

9 *Cremer v Lowles* [1896] 1 QB 504, CA; and see para 784 note 13 post.

10 Election Petition Rules 1960, SI 1960/543, r 4(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 4(1); and see note 2 supra.

11 Representation of the People Act 1983 s 121(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(3).

779. Who may present an election petition. A parliamentary, Welsh Assembly or European parliamentary election petition[1] may be presented by any one or more of the following persons: (1) a person who voted as an elector, or who had a right so to vote, at the election to which the petition relates[2]; or (2) a person claiming to have had a right to be returned or elected at the election[3]; or (3) a person alleging himself to have been a candidate at the election[4].

1 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

2 Representation of the People Act 1983 s 121(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(1)(a). The reference in the Representation of the People Act 1983 s 121(1)(a) to a person who voted as an elector at a parliamentary election or who had the right so to vote does not include a person who had an anonymous entry in the register of electors: s 121(1A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 11). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.

The words set out in head (1) in the text prima facie include a person who has voted without being entitled to do so. In *Harford v Linskey* [1899] 1 QB 852, DC, at 859 and 862, Wright J (quoting the Municipal Corporations Act 1882 s 88 (repealed), the words of which are, as regards this point, substantially the same) expressed the view that those words would cover the case of a voter who had no right to vote. The point seems never to have been decided. The fact of the mention of the alternative in the section tends to show that such a case is included, as otherwise, it is submitted, it would have been sufficient to say merely 'some person who had a right to vote'. The question was raised but not decided in *Walsall Case* (1892) cited in Day 1.

3 Representation of the People Act 1983 s 121(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(1)(b). A person who is incapable of being duly elected because he is too young could not be a person claiming the right to be elected for the purposes of this provision: *Hobson v Fishburn* (1988) Times, 21 November, DC (but see note 4 infra). In relation to a Welsh Assembly election, it is provided that a person claiming to have had a right to be returned under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see para 222 ante) also may present a petition: National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(d). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and para 222 ante.

4 Representation of the People Act 1983 s 121(1)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(c); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(1)(c). For the meaning of 'candidate' see para 237 ante. As to the nomination of a candidate see para 262 et seq ante. In *Hobson v Fishburn* (1988) Times, 21 November DC, a person who was too young to be duly elected but who had been nominated as a candidate could have brought an election petition under the provision set out in head (3) in the text (but see note 3 supra). See also *Harford v Linskey* [1899] 1 QB 852 at 859 per Wright J (who said, quoting the Municipal Corporations Act 1882 s 88 (repealed) (the words of which are, as regards this point, substantially the same), that the words of the statute seem designed to express something wider than absolutely valid candidature).

780. Respondent. The respondent to a parliamentary, Welsh Assembly or European parliamentary election petition[1] is the member of Parliament or Welsh Assembly member or member of the European Parliament ('MEP') whose election or return is complained of[2]. Where, however, a parliamentary or Welsh Assembly election petition complains of the conduct of a returning officer[3], he is deemed to be a respondent for the purposes of the provisions[4] as to election petitions[5]. The allegation against the returning officer need not necessarily be one of wilful misconduct, and he may be joined as a respondent where the acts or omissions or negligence complained of are not personal but are those of his subordinates[6].

An unsuccessful candidate cannot be made a respondent to an election petition against his will[7]. However, a petition may be presented complaining of the election or return of a member who has since died[8].

1 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

2 Representation of the People Act 1983 s 121(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(2).

3 As to returning officers for parliamentary elections see para 355 et seq ante. For the purposes of Welsh Assembly elections, the reference, in relation to a constituency election, is to a constituency returning

officer and, in relation to a regional election, is to a regional returning officer (for the meanings of which see para 18 note 2 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(2). For these purposes, art 86(2) also applies if the petition complains of the conduct of a constituency returning officer in the exercise of his functions in relation to a regional election: art 86(3). For the meanings of 'constituency election' and 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. In relation to a European parliamentary election, the returning officer and any local returning officer are both specified and, accordingly, subsequent references to the 'officer' or to the 'respondent' are taken to be references to the 'officer (or officers) in question' and the 'respondent (or respondents)' respectively: see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(2). As to the designation of returning officers and local returning officers at European parliamentary elections see para 365 et seq ante.

4 Ie, in relation to a parliamentary election, under the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85–137) (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86–122) (as amended) (see para 759 et seq ante).

5 Representation of the People Act 1983 s 121(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(2). If it is proposed to give evidence at the hearing of an election petition to implicate the returning officer, he should be made a respondent: *Tamworth Case, Hill and Walton v Peel and Bulwer* (1869) 20 LT 181, 1 O'M & H 75 (it being proposed to offer evidence implicating the returning officer, Willes J refused leave to have him called as a witness, as no charge had been made against him in the petition). It seems that a returning officer who is so deemed to be a respondent is entitled to the same notices as to presentation of the petition, the proposed security, etc, as an ordinary respondent: see *Young v Figgins* (1868) 19 LT 499.

6 *Islington, West Division Case* (1901) 5 O'M & H 120; *Drogheda Borough Case* (1874) 2 O'M & H 201; *Warrington Case, Crozier v Rylands* (1869) 19 LT 812, 1 O'M & H 42; but see, contra, *Harmon v Park* (1880) 6 QBD 323, CA; *Cirencester Case* (1893) cited in Day 3. In the latter case, on a summons being taken out by a respondent for leave to serve the petition on the returning officer, Mathew J refused it on the ground that it was unnecessary, as by the fact of the returning officer's conduct being complained of he was already deemed to be a respondent; but on a summons being subsequently taken out by the returning officer for particulars of the charges against him, Cave J held that he was not a party, as wilful misconduct was not alleged against him. It is submitted that the view expressed by Mathew J is the correct view of the position of a returning officer against whose conduct of the election complaint is made in the petition. Cf the judgment of Lord Selbourne LC in *Harmon v Park* supra at 328–329; and see *Haverfordwest Case, Davies v Lord Kensington* (1874) LR 9 CP 720, DC; *Athlone Borough Election Petition* (1874) 2 O'M & H 186; *Clare, Eastern Division Case* (1892) 4 O'M & H 162.

7 *Maidenhead Case, Lovering v Dawson (No 1)* (1875) LR 10 CP 711, DC. See also *Yates v Leach* (1874) LR 9 CP 605, DC.

8 *Tipperary County Case* (1875) IR 9 CL 173; *Mitchell's Case* (1696) cited in 1 Lud EC 456; *Peterborough City Case* (1728) 21 Commons Journals 162; *Durham City Case* (1853) 108 Commons Journals 562, 596. The reason for this is that the proceeding is not of a personal nature against a dead man. It is the assertion of a right in rem: *Tipperary County Case* supra. Where it is alleged that the votes given for the successful candidate were votes thrown away (see para 843 post), there might be advantages in proceeding with the petition.

781. Notice of respondent's intention not to oppose. Not less than seven days before the day fixed for the trial[1], a respondent who does not intend to oppose a parliamentary, Welsh Assembly or European parliamentary election petition[2] must serve notice to that effect on the petitioner and the Director of Public Prosecutions[3]. The giving of notice by a respondent of his intention not to oppose the petition does not of itself cause him to cease to be a respondent[4].

1 As to the computation of this period see para 766 ante; and as the fixing of the time and place of trial see para 804 post.

2 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

3 Election Petition Rules 1960, SI 1960/543, r 15; European Parliamentary Election Petition Rules 1979, SI 1979/521, r 15. The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see para 765 note 3 ante.

4 *Yates v Leach* (1874) LR 9 CP 605.

782. Mode of presentation of election petition. A parliamentary, Welsh Assembly or European parliamentary election petition[1] must be presented to the High Court if the constituency[2] or the electoral region[3] to which it relates is in England or Wales[4]. The petition is presented by delivering it to the prescribed officer[5] or otherwise by dealing with it in the prescribed manner[6], that is by filing it in the election petitions office[7] and at the same time leaving three copies there[8]. It is the duty of the prescribed officer to send a copy of the election petition to the returning officer of the constituency or electoral region (as the case may be) to which the petition relates[9], and the returning officer must forthwith publish it in that constituency or electoral region[10].

1 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

2 Ie the parliamentary constituency in the case of a parliamentary election or the Assembly constituency in the case of a Welsh Assembly constituency election. For the meanings of 'Assembly constituency election' and 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meanings of 'parliamentary election', and 'constituency' in relation to a parliamentary election, see para 9 ante.

3 Ie the Assembly electoral region in the case of a Welsh Assembly regional election, or the combined region or any European parliamentary electoral region wholly in England and Wales in the case of a European parliamentary election. For the meanings of 'Assembly electoral region' and 'Assembly regional election' in the context of Welsh Assembly elections see para 3 note 1 ante. As to European parliamentary elections see para 224 et seq ante; and as to the establishment of electoral regions for the purpose of elections to the European Parliament (including the combined region) see para 76 ante.

4 Representation of the People Act 1983 s 121(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(3).

5 As to the prescribed officer see para 768 ante.

6 Representation of the People Act 1983 s 121(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(4).

7 For the meaning of 'election petitions office' see para 766 note 12 ante.

8 Election Petition Rules 1960, SI 1960/543, rr 2(5), 4(2); European Parliamentary Election Petition Rules 1979, SI 1979/521, rr 2(4), 4(2) (r 2(4) substituted, and r 4(2) amended, by SI 2004/1415). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied for the purposes of Welsh Assembly election petitions: see para 765 note 3 ante.

9 As to returning officers for parliamentary elections see para 355 et seq ante. For the purposes of Welsh Assembly elections, the reference, in relation to a constituency election, is to a constituency returning officer and, in relation to a regional election, is to a regional returning officer (for the meanings of which see para 18 note 2 ante). As to the designation of returning officers at European parliamentary elections see para 365 et seq ante. As to the constituencies and electoral regions referred to in the text see notes 2, 3 supra.

10 Representation of the People Act 1983 s 121(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(4). Where, by any provision of the Election Petition Rules 1960, SI 1960/543, or the European Parliamentary Election Petition Rules 1979, SI 1979/521, as the case may be, a petition or notice is required to be published by the returning officer, the cost of publication must be paid in the first instance by the petitioner or, as the case may be, by the person by whom the notice was given, without prejudice to the manner in which such cost is ultimately to be borne by one or more of the parties to the petition: Election Petition Rules 1960, SI 1960/543, r 20; European Parliamentary Election Petition Rules 1979, SI 1979/521, r 19; and see note 8 supra.

783. Time for presentation of election petition. In general, a parliamentary election petition[1] must be presented within 21 days[2] after the return of the member to whose election it relates has been made to the Clerk of the Crown[3]. The return of a member at a parliamentary election is not made until the writ with the returning officer's certificate endorsed on it reaches the Clerk of the Crown so that he may act on it[4], and the period of 21 days does not begin to run until then[5]. In general, a Welsh Assembly election petition[6] must be presented within 21 days after the day on which the name of any member to whose election or return the petition relates has been returned[7].

In general, a European parliamentary election petition[8] must be presented within 21 days after the day on which the relevant result was declared in accordance with the European parliamentary elections rules[9].

If, at a parliamentary or Welsh Assembly election, the return or the election is challenged on an allegation of corrupt practices[10], and the petition specifically alleges a payment of money or other reward[11] to have been made by the member or on his account or with his privity since the time of the return in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of such payment[12]. A parliamentary or Welsh Assembly election petition questioning a return or an election upon an allegation of an illegal practice may, so far as respects the illegal practice, be presented not later than the expiration of 21 days after the specified day[13]. The specified day for this purpose is the tenth day after the end of the time allowed for delivering to the returning officer returns as to election expenses at the election or, if later[14]: (1) that on which the returning officer receives the return and declarations as to election expenses by the member to whose election the petition relates and his election agent[15]; or, (2) where the return and declarations are received on different days, the last of those days[16]; or (3) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse or, if there was a failure as regards two or more of them and the excuse was allowed at different times, the date of the allowance of the last excuse[17]. Moreover, if the petition specifically alleges a payment of money to have been made or some other act to have been done since the specified day by the member or an agent of the member, or with the privity of the member or his election agent, in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented within 28 days after the date of the payment or other act[18].

1 As to parliamentary election petitions see para 759 ante.

2 As to calculation of these times limits and as to the circumstances in which presentation might be deemed see para 766 ante.

3 Representation of the People Act 1983 s 122(1). 'Clerk of the Crown' means Clerk of the Crown in Chancery: s 202(1). As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.

4 See paras 478–479 ante.

5 *Re Poole Case, Hurdle v Waring* (1874) LR 9 CP 435.

6 As to Welsh Assembly election petitions see para 762 ante.

7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(1). The text refers to an election or return at a Welsh Assembly election in accordance with either art 16(1), Sch 5 (as amended) (see para 487 et seq ante) or the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see para 222 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(1). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and para 222 ante.

8 As to European parliamentary election petitions see para 763 ante.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 90. For the meaning of 'European parliamentary elections rules' see para 388 ante. The text refers to the day on which the result of the election was declared under reg 9(1), Sch 1 para 56 (see para 491 ante).

10 This includes a petition complaining that corrupt or illegal practices, or illegal payments, employments or hirings, have extensively prevailed even though the alleged offences are or include offences other than corrupt practices: Representation of the People Act 1983 s 122(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(7). There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.

11 'Payment' includes any pecuniary or other reward; and 'pecuniary reward' and 'money' include any office, place or employment and any valuable security or equivalent for money and any valuable

consideration: Representation of the People Act 1983 s 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 136.

12 Representation of the People Act 1983 s 122(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(2). As to European parliamentary election petitions see note 10 supra. The payment, unlike a payment in furtherance of an illegal practice, may have been made at any time since the election. However, in *Kidderminster Case* (1874) 2 O'M & H 170 at 172, Mellor J (on the previous, but similar, statutory wording) expressed the opinion that the case must be confined to payments made within the 28 days and may not embrace those made within the 21 days after the return. There is nothing in the Representation of the People Act 1983 s 122(2) corresponding to the words 'so far as respects that illegal practice' in s 122(3) (see the text and note 13 infra). It would seem, however, that the corresponding limitation is to be implied: see *Kidderminster Case* supra at 172 per Mellor J; *Brecon Borough Case, Watkins and Watkins v Holford* (1871) 2 O'M & H 43.

It would seem that extended time would not be allowed if another petition had already been heard and dismissed: see para 856 post; and cf paras 791, 859 post. This would seem to be the case where the petition was against a candidate first declared to be successful on the hearing of a petition against another candidate: cf *Taunton Case, Waygood v James* (1869) LR 4 CP 361.

13 Representation of the People Act 1983 s 122(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(3)(a). As to European parliamentary election petitions see note 10 supra.

14 Representation of the People Act 1983 s 122(4) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 44); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(4). As to European parliamentary election petitions see note 10 supra.

15 Representation of the People Act 1983 s 122(4)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(4)(a). As to European parliamentary election petitions see note 10 supra. As to the time for delivering the return and the declaration to the returning officer see paras 285–286 ante. In relation to a Welsh Assembly election, head (1) in the text refers to a member who was an individual candidate: art 87(4)(a). Where the member was a party list candidate, the day specified is that on which the National Assembly for Wales receives the return and declaration as to election expenses by the registered political party's registered nominating officer and the declaration as to election expenses by that member: art 87(4)(b). For the meaning of references to a group of party list candidates and for the meaning of 'individual candidate' for these purposes see para 237 note 23 ante. For the meaning of 'registered political party' for these purposes see para 263 ante. As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; and as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante. As to a registered political party's nominating officer see para 260 ante.

16 Representation of the People Act 1983 s 122(4)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(4)(c). As to European parliamentary election petitions see note 10 supra.

17 Representation of the People Act 1983 s 122(4)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(4)(d). As to European parliamentary election petitions see note 10 supra. As to authorised excuses see para 691 et seq ante.

18 Representation of the People Act 1983 s 122(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(3)(b). As to European parliamentary election petitions see note 10 supra.

784. Amendment of election petition. If a parliamentary or Welsh Assembly election petition[1] has been presented within the period of 21 days from the making of the return or, where the petition contains an allegation of corrupt practice and a specific allegation of payment, within 28 days after that payment[2], then, for the purpose of questioning the return or the election upon an allegation of an illegal practice, the petition may be amended with the leave of the High Court[3] within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented[4]. The provisions as to the time of presentation of a petition alleging an illegal practice[5] or the amendment of such a petition[6] apply whether or not the act constituting the alleged illegal practice amounted to a corrupt practice, and they apply also to the corrupt practices of incurring or aiding, abetting, counselling or procuring the incurring of certain expenses not authorised by the election agent, or making a false declaration about such expenses[7], as if they were illegal practices[8]. An affidavit in support of the application is desirable[9].

The High Court has no jurisdiction to allow an amendment of a petition after the time prescribed by statute by the introduction of a fresh substantive charge[10]; nor to allow a petitioner to change the grounds on which he claims he has capacity to bring the petition[11]; nor to convert an offence charged under one statutory provision into an offence against another related provision, although the facts might support the latter offence[12]. It is submitted that there is no jurisdiction to allow an amendment introducing a fresh charge, whether the charge sought to be added is one of a fresh nature, or whether it is one only of a fresh instance not covered by the allegations in the petition as standing[13].

The objection to adding a charge after the time for presenting a petition has elapsed does not apply to withdrawing a charge, and it would seem that this may be done. The withdrawal of that portion of a petition which claims the seat cannot, however, be effected by way of amendment because the rights of the electors would be affected by their not having the opportunity of substituting another petitioner[14].

Allegations which disclose no offence or which are otherwise immaterial may be struck out[15].

1 As to parliamentary election petitions see para 759 ante; and as to Welsh Assembly election petitions see para 762 ante. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.

2 As to the time limited for presentation of an election petition see para 783 ante.

3 Leave ought not to be given on an application without notice: *Shaw v Reckitt (Pontefract Election Petition)* [1893] 2 QB 59, CA.

4 Representation of the People Act 1983 s 122(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(5). The power of amendment given by this provision applies, it has been held, where it is sought to amend by alleging an illegal payment, employment, or hiring which is not an illegal practice: *York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 116. As to the withdrawal of petitions see para 811 et seq post.

5 See para 783 ante.

6 Ie, in relation to a parliamentary election, under the Representation of the People Act 1983 s 122(5) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(5) (see the text and notes 1–4 supra).

7 Ie the matters which are corrupt practices, in relation to a parliamentary election, under the Representation of the People Act 1983 s 75 (as amended) and, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 44 (see para 284 ante).

8 Representation of the People Act 1983 s 122(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 87(6).

9 *Great Yarmouth Borough Case* (1906) 5 O'M & H 176; *Cornwall, Bodmin Division Case* (1906) 5 O'M & H 225.

10 *Maude v Lowley* (1874) LR 9 CP 165 (municipal), which was followed in *Clark v Wallond* (1883) 52 LJQB 321 (municipal); *Norwich Case, Birbeck v Bullard* (1886) 2 TLR 273; *Cremer v Lowles* [1896] 1 QB 504, CA; *Lancaster County, Lancaster Division Case* (1896) 5 O'M & H 39 at 40. See also the doubt expressed as to the court having such jurisdiction in *Youghal Borough Case* (1869) 1 O'M & H 291 at 296 per O'Brien J. The peculiar nature of the jurisdiction and the importance in the public interest of securing an early determination of the matter are, it seems relevant considerations in regard to extensions of time: see *Senanayake v Navaratne* [1954] AC 640 at 851, [1954] 2 All ER 805 at 810, PC (Ceylon election).

11 *Hobson v Fishburn* (1988) Times, 21 November, DC. The petitioner had claimed capacity to bring the petition under the Representation of the People Act 1983 s 121(1)(b) (see para 779 ante); he was refused leave to amend the petition out of time to claim capacity under s 121(1)(a) or (c) (see para 779 ante); and he was also refused leave to withdraw the petition so that another petitioner could be substituted (see para 811 note 2 post).

12 See *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 337; *Manchester, Eastern Division Case* (1892) 4 O'M & H 120.

13 In *Cremer v Lowles* [1896] 1 QB 504, CA, there was a general allegation in the petition that the respondent had been guilty of 'other corrupt and illegal practices before, during, and after the election',

but on his seeking to include in his particulars offences committed after the presentation of his petition and after the time limited for amendment, such particulars were struck out.

14 *Aldridge v Hurst* (1876) 1 CPD 410.

15 *Stevens v Tillett* (1870) LR 6 CP 147; *Brecon Borough Case* (1871) 2 O'M & H 170n; *Sheffield, Attercliffe Division Case* (1906) 5 O'M & H 218 at 220; *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1 at 3.

785. Supplemental petition. A supplemental petition, founded on new matter discovered since the original petition was presented, may be filed to cure some defect in the original petition[1] or to meet some difficulty as to the time at which the original petition was presented[2].

1 *Poole Case, Hurdle and Stark v Waring* (1874) 31 LT 171 at 177. Supplemental petitions which are founded on new matter discovered since the original petition was presented may be presented within the time within which the original petition could have been presented: see 2 Roe on Elections (2nd Edn) 148, 191.

2 *Poole Case, Hurdle and Stark v Waring* (1874) as reported in 2 O'M & H 123 at 127. However, the usual course is to amend the original petition as it avoids the necessity of giving security under the supplemental petition. As to the giving of security for costs see para 794 et seq post.

786. Service of petition. A parliamentary, Welsh Assembly or European parliamentary election petition[1] must be served in such manner as may be prescribed[2].

1 As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

2 Representation of the People Act 1983 s 121(5) (amended by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 19(3)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 89(5). As to the service of documents for these purposes see para 802 post.

B. LOCAL GOVERNMENT ELECTIONS AND LOCAL AUTHORITY REFERENDUMS

787. Form and contents of petition. A petition questioning a local authority referendum[1] or an election under the Local Government Act 1972[2] must be in the prescribed form[3]. The petition must state: (1) (except in the case of a local authority referendum petition) in which capacity the petitioner or each of the petitioners presents the petition[4]; (2) the date and result of the election or referendum (as the case may be) to which the petition relates[5]; (3) in the case of a petition alleging a corrupt or illegal practice at an election[6] or in the case of any referendum petition, the date from which the time for the presentation of the petition is to be calculated[7]; and (4) the grounds on which relief is sought, setting out with sufficient particularity the facts relied on but not the evidence by which they are to be proved[8].

The petition must conclude with a prayer setting out particulars of the relief claimed[9], and must be signed by the petitioner[10].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.

3 Representation of the People Act 1983 s 128(3); and see note 1 supra. The petition must be in the form set out in the Election Petition Rules 1960, SI 1960/543, Schedule (amended by SI 1985/1278), or a form to the like effect with such variations as the circumstances may require: Election Petition Rules 1960, SI 1960/543, r 4(1). The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied and modified for the purposes of a local authority referendum petition: see para 765 note 3 ante.

4 Ibid r 4(1)(a) (amended by SI 1985/1278). As to the persons who may present a petition see para 788 post.
5 Election Petition Rules 1960, SI 1960/543, r 4(1)(b); and see note 3 supra.
6 Ie a petition mentioned in the Representation of the People Act 1983 s 129(2), (3) or (4): see para 791 post.
7 Election Petition Rules 1960, SI 1960/543, r 4(1)(c) (amended by SI 1985/1278); and see note 3 supra. As to the time for presentation in such a case see para 791 post.
8 Election Petition Rules 1960, SI 1960/543, r 4(1)(d); and see note 3 supra. As to allegations in the petition see further para 778 ante.
9 Ibid r 4(1); and see note 3 supra.
10 Representation of the People Act 1983 s 128(3); and see note 1 supra.

788. Who may present a petition. A petition questioning a local authority referendum[1] or an election under the Local Government Act 1972[2] may be presented by four or more persons who voted or had a right to vote[3] as electors at the election or referendum (as the case may be)[4]. A petition questioning an election under the Local Government Act 1972 may be presented alternatively by a person alleging himself to have been a candidate at the election[5].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.
3 As to the meaning of 'persons who voted or had a right to vote' see para 779 note 2 ante.
4 Representation of the People Act 1983 s 128(1); and see note 1 supra. The reference in s 128(1) to a person who voted as an elector at an election or who had the right so to vote does not include a person who had an anonymous entry in the register of electors: s 128(1A) (added by the Electoral Administration Act 2006 s 10(2), Sch 1 paras 2, 12). For the meaning of 'anonymous entry' in relation to a register of electors see para 174 ante.
5 Representation of the People Act 1983 s 128(1). For the meaning of 'candidate' generally see para 237 ante. See also *Re Cambridge County Council Election Petition, Fordham v Webber* [1925] 2 KB 740, DC.

789. Who may be respondent. A person whose election under the Local Government Act 1972[1] is questioned by a petition may be made a respondent to it[2]. Additionally, in the case of such an election, or in the case of any local authority referendum[3], any returning officer of whose conduct a petition complains may be made a respondent to the petition[4]. Two or more candidates (in the case of an election) or two or more persons (in the case of a referendum) may be made respondents to the same petition, but the petition is deemed to be a separate petition against each respondent[5]. A petition may be presented complaining of the election of a person who has since died[6].

Where the ground on which a petition seeks to avoid the respondent's election applies equally to another candidate elected at the same election (but who is not a respondent to the petition), it is not a necessary condition to the hearing and determining of the respondent's petition that the other candidate should be joined as a respondent[7], the underlying premise being that a petition is not competent for the purpose of obtaining relief whose effect would be to unseat an elected candidate unless the person whose election is being questioned has been joined as a respondent to the election petition[8].

1 For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.

2 Representation of the People Act 1983 s 128(2). However, an unsuccessful candidate cannot be made a respondent to an election petition against his will: *Maidenhead Case, Lovering v Dawson (No 1)* (1875) LR 10 CP 711; *Yates v Leach* (1874) LR 9 CP 605.

3 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see para 764 ante.

4 Representation of the People Act 1983 s 128(2); and see note 3 supra. In *Absalom v Gillett* [1995] 2 All ER 661, [1995] 1 WLR 128, it was held that the presiding officer may be presumed to be the returning officer for the purposes of the Representation of the People Act 1983 s 128(2) in relation to an uncontested election. However, this case may have application only to City of London elections (within which context the point arose), as such elections are governed by local Acts which do not provide an equivalent remedy to that contained in the Representation of the People Act 1983 s 35 (as amended) (returning officers for local elections in England and Wales: see para 359 ante).

5 Ibid s 138(3); and see note 3 supra. The petitions are tried together: see para 803 post. The court in *Pease v Norwood* (1869) LR 4 CP 235 seemed to doubt whether the provision by which the petition is deemed to be a separate petition against each respondent had any substantial effect. As to security for costs in such cases see para 794 post.

6 See para 780 ante.

7 *Line v Warren* (1884) 14 QBD 73; on appeal (1885) 14 QBD 548, CA.

8 *Absalom v Gillett* [1995] 2 All ER 661 at 671, [1995] 1 WLR 128 at 138 per Laws J, in the context of a petition questioning a City of London election, applying *Line v Warren* (1885) 14 QBD 548 at 552–554, CA, per Brett MR. Common justice dictates that a successful candidate whose election and status as a democratic representative is impugned by litigation ought to be heard; because the Representation of the People Act 1983 s 128(2) defines the potential respondents to a petition under s 128(1), the subjunctive 'may' is a word of limitation rather than permission and the requirement to serve a petition is mandatory: *Absalom v Gillett* supra. In *Absalom v Gillett* supra at 670–671 and 137, Laws J noted that *Copeland v Jackson* (July 1933, unreported) supported the view that a successful candidate cannot be unseated without his being a party to the petition.

790. Mode of presentation of petition. The presentation of a petition questioning a local authority referendum[1] or an election under the Local Government Act 1972[2] is made to the High Court in the Queen's Bench Division in a similar manner to that in which the presentation of a parliamentary election petition is made[3]. The master who is for the time being nominated as the prescribed officer in relation to parliamentary election petitions[4] is also the prescribed officer in relation to petitions questioning elections under the Local Government Act 1972[5] or local authority referendums[6]. The master must send forthwith a copy of the petition to the proper officer[7] of the authority for which the election or referendum (as the case may be) was held, who must forthwith publish it in that authority's area[8].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.

3 As to the presentation of parliamentary election petitions see para 782 ante.

4 See para 768 ante.

5 Ie under the Representation of the People Act 1983 Pt III (ss 120–186) (as amended).

6 Ibid s 157(6); Election Petition Rules 1960, SI 1960/543, r 2(3) (amended by SI 1985/1278); and see note 1 supra. The Election Petition Rules 1960, SI 1960/543 (as amended) have been applied and modified for the purposes of a local authority referendum petition: see para 765 note 3 ante.

7 Ie the officer appointed by the local authority for the purpose or, at a parish or community council election, the returning officer: see para 775 ante.

8 Representation of the People Act 1983 s 128(4); and see note 1 supra. As to the costs of publication by the returning officer see para 782 note 10 ante.

791. Time for presentation of petition. In general, a petition questioning a local authority referendum[1] or an election under the Local Government Act 1972[2] must be presented within 21 days[3] after the day on which the election or referendum (as the case may be) was held[4].

If the petition complains of the election or referendum (as the case may be) on the ground of a corrupt practice[5] and specifically alleges that a payment of money or other reward[6] has been made or promised either since the election by a candidate elected at the election or since the referendum by any person (as the case may be), or on his account or with his privity, in pursuance or furtherance of that corrupt practice, it may be presented within 28 days[7] after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried[8].

A petition complaining of the election or referendum (as the case may be) on the ground of an illegal practice and specifically alleging a payment of money or other act made or done either since the election by the candidate elected at the election (or by the candidate's agent or with the privity of the candidate or his election agent[9]) or since the referendum by any person (as the case may be), in pursuance or in furtherance of that illegal practice, may be presented at any time within 28 days[10] after the date of that payment or act, whether or not any other petition against that person has been previously presented or tried[11].

A petition complaining of an election where election expenses are allowed on the ground of an illegal practice may be presented at any time before the expiration of 14 days[12] after a specified day[13], this day being: (1) that on which the appropriate officer[14] receives the return and declarations as to election expenses by the candidate to whose election the petition relates and his election agent[15]; or (2) where the return and declarations are received on different days, the last of those days[16]; or (3) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or, if there was a failure as regards two or more of them and the excuse was allowed at different times, the date of the allowance of the last excuse[17].

The provisions as to the time within which an election petition alleging, either originally[18] or by amendment[19], an illegal practice may be presented apply whether or not the act constituting the alleged illegal practice amounted to a corrupt practice, and they apply also to the corrupt practices of incurring certain election expenses not authorised by the election agent or making a false declaration about such expenses[20] as if they were illegal practices[21]. Similarly, the provisions as to the time within which a referendum petition alleging, either originally[22] or by amendment[23], an illegal practice may be presented apply whether or not the act constituting the alleged illegal practice amounted to a corrupt practice[24].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.

3 As to calculation of these times limits and as to the circumstances in which presentation might be deemed see para 766 ante.

4 Representation of the People Act 1983 s 129(1); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(2); and see note 1 supra. For a case where an election petition

was presented before the day of election because the petitioner's nomination was rejected by the returning officer see *Re Grangemellon Case* [1909] 2 IR 90 at 103.

5 This includes a petition complaining that corrupt or illegal practices or illegal payments, employments or hirings have extensively prevailed, notwithstanding that the offences alleged are or include offences other than corrupt practices: Representation of the People Act 1983 s 129(8); and see note 1 supra.

6 This includes any office, place or employment and any valuable security or equivalent for money and any valuable consideration: ibid s 185; and see note 1 supra. In the case of a local authority referendum, the reference is to the ground mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(d) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(d) (see para 764 ante).

7 As to calculation of time for these purposes see note 3 supra. A local authority referendum petition, on the ground that a payment of money or other reward has been made or promised since the referendum in pursuance of a corrupt or illegal practice, may be presented only with the leave of the High Court: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(3). An application for leave must be made, not later than 28 days after the date of the alleged payment or promise, by application notice to the court at such time and place as the court may appoint: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(4). Not less than seven days before the day so appointed, the applicant must serve the application notice, stating the grounds on which the application is made, on the respondent and the Director of Public Prosecutions and lodge a copy in the election petitions office and publish notice of the intended application in at least one newspaper circulating in the voting area for the referendum to which the application relates: Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(5), (6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(5), (6). For the meaning of 'voting area' see para 582 note 2 ante. For the meaning of 'election petitions office' see para 766 note 12 ante.

8 Representation of the People Act 1983 s 129(2); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(3), (4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(3), (4); and see note 1 supra.

9 As to the appointment of an election agent for local government elections see para 238 ante. In relation to an election where candidates are not required to have election agents (see para 238 note 3 ante), the reference to an election agent is to be omitted: Representation of the People Act 1983 s 129(9).

10 See note 7 supra.

11 Representation of the People Act 1983 s 129(3); Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(3), (4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(3), (4); and see note 1 supra.

12 See note 3 supra.

13 Representation of the People Act 1983 s 129(4).

14 For the meaning of 'appropriate officer' see para 238 note 5 ante.

15 Representation of the People Act 1983 s 129(5)(a). As to the reference to an election agent see note 9 supra. As to the return and declarations as to expenses see para 285 et seq ante.

16 Ibid s 129(5)(b); and see note 17 infra.

17 Ibid s 129(5)(c). As to authorised excuses see para 691 et seq ante. Heads (2) and (3) in the text do not apply in relation to an election where candidates are not required to have an election agent (see para 238 note 3 ante): s 129(9).

18 Ie ibid s 129(3)–(5) (see the text and notes 9–17 supra).

19 Ie ibid s 129(6) (see para 792 post).

20 Ie the matters which are corrupt practices, in relation to an election, under ibid s 75 (as amended) (see para 284 ante).

21 Ibid s 129(7).

22 Ie ibid s 129(3) (as applied and modified) (see the text and notes 9–11 supra).

23 Ie ibid s 129(6) (as applied and modified) (see para 792 post).

24 Ibid s 129(7); and see note 1 supra.

792. Amendment of petition. If a petition questioning a local authority referendum[1] or an election under the Local Government Act 1972[2] has been presented within the period of 21 days from the day of election or referendum (as the case may be)[3], or within 28 days after the payment where there is an allegation of a corrupt practice and a specific allegation of payment[4], then, for the purpose of complaining of

the election or referendum (as the case may be) on an allegation of an illegal practice, the petition may be amended with the leave of the High Court within the time within which a petition complaining of the election or referendum (as the case may be) on the ground of that illegal practice could be presented[5].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.

3 Ie within the time limited by the Representation of the People Act 1983 s 129(1) (including that provision as applied and modified: see note 1 supra): see para 791 ante.

4 Ie within the time limited by ibid s 129(2) (including that provision as applied and modified: see note 1 supra): see para 791 ante.

5 Ibid s 129(6); and see note 1 supra. It will be noticed that the High Court's jurisdiction does not have to be exercised by a judge on the rota for the trial of parliamentary election petitions. The statute in this respect follows *Ex p Haseldine* (1895) 59 JP 71, DC; and *Nichol v Fearby* [1923] 1 KB 480. As to the time for presenting a petition complaining of illegal practices see para 791 ante. As to case law regarding the amendment of an election petition see para 784 ante.

(iv) Service of Notices and Security for Costs

793. Service of notices on respondent etc. Any notice required to be served on a respondent to a petition[1] may be served by delivering it or sending it by post to any solicitor who has given notice of his appointment to act for the respondent[2]. A solicitor who has been so appointed must forthwith give notice of his appointment to the petitioner and lodge a copy of the notice in the elections petition office[3]. If no such notice has been given, any notice required to be served on the respondent may be served in the manner provided[4].

Any notice required to be served on the returning officer or the Director of Public Prosecutions in election petition proceedings may be served by delivering it or sending it by post to him[5].

1 Ie a parliamentary election petition or a petition questioning an election under the Local Government Act 1972 (Election Petition Rules 1960, SI 1960/543, r 2(2) (amended by SI 1985/1278)), a Welsh Assembly election petition (Election Petition Rules 1960, SI 1960/543, r 2(2) (as applied: see para 765 note 3 ante)), a petition questioning an election under the European Parliamentary Elections Act 2002 (European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(1) (amended by the European Communities (Amendment) Act 1986 s 3; and by SI 2004/1415)) or a local authority referendum petition (Election Petition Rules 1960, SI 1960/543, r 2(2) (as applied: see para 765 note 3 ante)). As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; as to European parliamentary election petitions see para 763 ante; and as to the questioning of a local authority referendum see para 764 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante. As to respondents see paras 780, 789 ante.

2 Election Petition Rules 1960, SI 1960/543, r 21(2)(a); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 20(2)(a); and see note 1 supra.

3 Election Petition Rules 1960, SI 1960/543, r 21(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 20(1); and see note 1 supra. For the meaning of 'election petitions office' see para 766 note 12 ante.

4 Election Petition Rules 1960, SI 1960/543, r 21(2)(b) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 20(2)(b) (amended by SI 2004/1415); and see note 1 supra. As to the manner of service see para 802 post.

5 Election Petition Rules 1960, SI 1960/543, r 21(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 20(3); and see note 1 supra.

794. Amount and form of security for costs. At the time of presenting an election[1] or referendum petition[2], or within three days[3] afterwards, the petitioner must give security for all costs that may become payable by him to any witness summoned on his behalf or to any respondent[4]. Within three days after the presentation of the petition, the petitioner must apply without notice being served on any respondent to a master to fix the amount of security for costs which he is to give[5]. In the case of a parliamentary, Welsh Assembly or European parliamentary election petition, the security must be such amount not exceeding £5,000 as the High Court or a judge of the High Court directs on an application made by the petitioner[6]. In the case of a petition questioning a local authority referendum[7] or an election under the Local Government Act 1972[8], other than a parish or community council election, it must be such amount not exceeding £2,500 as is directed on such an application made by the petitioner[9]; in the case of a parish or community council election or a poll consequent on a parish or community meeting, it must be such amount not exceeding £1,500 as is so directed[10]. The security must be given in the prescribed[11] manner by recognisance or by a deposit of money, or partly in one way and partly in the other[12]. Deposit by way of security is made by payment into court in accordance with the general rules relating to security for costs[13].

If Parliament is dissolved after a parliamentary election petition has been lodged but before it is heard, the High Court will order the security deposited by the petitioner to be returned to him[14].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

2 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.

3 As to the calculation of time limits for these purposes see para 766 ante.

4 Representation of the People Act 1983 s 136(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(1); and see note 2 supra. As to respondents see paras 780, 789 ante. The time for giving security cannot be extended: see para 766 ante.

5 Election Petition Rules 1960, SI 1960/543, r 5(1) (substituted by SI 1985/1278; and amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(1) (substituted by SI 1988/557; and amended by SI 1999/1398; SI 2004/1415). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante. The text refers to the giving of security pursuant to the Representation of the People Act 1983 s 136 (as amended) or, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94. Although such provision is not made in the applied provisions as currently modified, it is submitted that it should be understood that, in relation to a Welsh Assembly election petition, security is given pursuant to the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91.

6 Representation of the People Act 1983 s 136(2)(a) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 48(a); and the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 19(4)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(2); and see note 2 supra.

7 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870.

8 For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

9 Representation of the People Act 1983 s 136(2)(b) (amended by the Representation of the People Act 1985 Sch 4 para 48(b); and the Political Parties, Elections and Referendums Act 2000 Sch 18 paras 1, 19(4)).

10 Representation of the People Act 1983 s 136(2)(b) (as amended: see note 9 supra) (applied with modifications by the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 6(b); and by the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(f)).

11 Ie prescribed by rules of court: Representation of the People Act 1983 s 185 (including that provision as applied see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 136(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 86. See the rules referred to in note 5 supra; and paras 795–798 post.

12 Representation of the People Act 1983 s 136(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(2); and see note 2 supra. As to recognisances as security for costs see further para 795 post.

13 See the Election Petition Rules 1960, SI 1960/543, r 2(4) (as amended), the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(3) (as amended); note 5 supra; and para 765 ante. As to the general rules of court relating to security for costs see CPR 25.12–25.13; and PRACTICE AND PROCEDURE vol 37 (Reissue) paras 834–835. In relation to a European parliamentary election petition and without prejudice to the rule that is set out in the text and note 5 supra, a petitioner when making a payment into court on account of his security for costs may do so (if a petition relates to an electoral region other than the combined region) at the election petitions office: European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(4)(a) (r 5(4) added by SI 2004/1415). As to European parliamentary election petitions which relate to the combined region see the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(4)(b) (as so added). For the meaning of 'election petitions office' see para 766 note 12 ante. As to the combined region see para 76 ante.

14 *Carter v Mills* (1874) LR 9 CP 117.

795. Recognisances as security for costs. In the case of an election[1] or referendum petition[2], a recognisance as security for costs may be entered into by any number of sureties not exceeding four[3]. A recognisance must be acknowledged before a person authorised to take affidavits under the Commissioners for Oaths Acts 1889 to 1891 or the Solicitors Act 1974[4], and must be filed forthwith after being acknowledged[5]. The recognisance must be accompanied by an affidavit sworn by each surety, stating that after payment of all his debts he is worth a sum not less than that for which he is bound by his recognisance[6].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

2 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.

3 Representation of the People Act 1983 s 136(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(2); and see note 2 supra. As to the amount and form of security for costs generally see para 794 ante. A security given by a petitioner may be liable to objection as insufficient: see para 797 post.

4 As to the powers referred to in the text under the Commissioners for Oaths Acts 1889 and 1891 see EVIDENCE vol 17(1) (Reissue) paras 1007–1008; and as to the powers referred to in the text under the Solicitors Act 1974 see SOLICITORS vol 44(1) (Reissue) para 94.

5 Election Petition Rules 1960, SI 1960/543, r 5(2) (substituted by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(2) (substituted by SI 2004/1415). As to European parliamentary election petitions which relate to the combined region see the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(2) (as so substituted). As to the combined region see para 76 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

6 Election Petition Rules 1960, SI 1960/543, r 5(3) (as substituted: see note 5 supra); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 5(3) (substituted by SI 1988/557); and see note 5 supra.

796. Notice of presentation of petition and of security. Within five days[1] after giving the security for costs pursuant to an election or referendum petition[2], the petitioner must serve on the respondent[3] and the Director of Public Prosecutions a

notice of the presentation of the petition and of the nature and amount of the security he has given, together with a copy of the petition and of the affidavit[4] accompanying any recognisance[5]. Service must be effected in the manner in which a claim form is served and a certificate of service must be filed as soon as practicable after service has been effected[6].

1 As to the calculation of time limits for these purposes see para 766 ante. See also note 5 infra.

2 As to security for costs see paras 794–795 ante. As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.

3 As to respondents see paras 780, 789 ante.

4 As to the affidavit see para 795 ante.

5 Representation of the People Act 1983 s 136(3) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 48(d)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(3); Election Petition Rules 1960, SI 1960/543, r 6(1) (r 6 substituted by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6(1) (substituted by SI 1988/557; and amended by SI 2004/1415); and see note 2 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

Any enlargement of the time limit prescribed for the purposes set out in the text is absolutely prohibited under the rules relating to election petitions, which have primacy over the Civil Procedure Rules in this respect: *Ahmed v Kennedy, Ullah v Pagel* [2002] EWCA Civ 1793, [2003] 2 All ER 440, [2003] 1 WLR 1820, applying *Williams v Tenby Corpn* (1879) 5 CPD 135 (service of notice within the prescribed time was a condition precedent to the trial of an election petition) and approving *Absalom v Gillett* [1995] 2 All ER 661, [1995] 1 WLR 128 (incompetent petition served in relation to a City of London election could not be amended and served again out of time, despite the draconian effect). In the latter case, Laws J at 670 and 136–137 cited *Carter v Griffiths* (28 July 1981, unreported) as being to like effect (rejecting a submission that the similar provisions that preceded the Representation of the People Act 1983 s 136 were directory only), and noted that Ralph Gibson J in so holding cited *Devan Nair v Yong Kuan Teik* [1967] 2 AC 31 at 44, [1967] 2 All ER 34 at 40, PC (a case concerning similar rules in respect of election petitions in Malaysia, where *Williams v Tenby Corpn* supra was stated to be 'plainly rightly decided'). *Devan Nair v Yong Kuan Teik* supra was considered to be highly persuasive in *Ahmed v Kennedy, Ullah v Pagel* supra, which also overruled *Young v Figgins, The Shrewsbury Petition* (1869) 19 LT 499 (in which a failure to serve a respondent had been characterised as a 'formal objection' which could be ignored under a rule in the Election Petition Rules 1868, no equivalent of which survives in the Election Petition Rules 1960, SI 1960/543 (as amended)). See *Saghir v Najib* [2005] EWHC 417 (QB), [2005] All ER (D) 353 (Mar) (the petitioners, in leaving an unamended copy of the petition on the court's files and in purporting to serve amended copies to the respondents, had failed within the prescribed time to serve notice of the presentation of the petition or to serve a copy of the petition, and their failure to state, in the notice as to the nature and amount of security, the date on which security had actually been given constituted a failure to serve, within the time prescribed, any notice of the nature and amount of the security which they had given). See also *Ali v Haques* [2006] All ER (D) 113 (Oct) (regarding the interaction between the Election Petition Rules 1960, SI 1960/543, r 6 (as substituted and amended) and the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6 (as substituted and amended) and the more generalised provisions of the Representation of the People Act 1983 s 184 (as amended) (as to which see para 802 post)). See further para 766 ante.

6 Election Petition Rules 1960, SI 1960/543, r 6(2) (as substituted (see note 5 supra); and amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6(2) (substituted by SI 1988/557; and amended by SI 1999/1398); and see note 5 supra.

797. Objections to recognisances. A respondent to an election or referendum petition[1] may object in writing to any recognisance as security for costs[2] on the ground that any surety is insufficient[3] or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged it[4]. Within 14 days[5] after service on him of the notice of presentation of the petition and of the nature of the proposed security[6], a respondent who intends to object to a recognisance on any of those grounds must serve on the

petitioner notice of his objection, stating his grounds, and issue and serve on the petitioner an application notice to determine the validity or otherwise of the objection[7].

1 As to respondents see paras 780, 789 ante. As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.

2 As to recognisances as security for costs see paras 795–796 ante.

3 A security given by a petitioner is not invalid in itself, but is liable to rejection as insufficient: *Pease v Norwood* (1869) LR 4 CP 235.

4 Representation of the People Act 1983 s 136(4) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 48(e)(i)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(4); and see note 1 supra.

5 As to the calculation of time limits for these purposes see para 766 ante.

6 As to this notice see para 796 ante.

7 Election Petition Rules 1960, SI 1960/543, r 7(1) (amended by SI 1985/1278; SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 7(1) (amended by SI 1988/557; SI 1999/1398; SI 2004/1415). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

As to the possibility of objecting to a recognisance on grounds other than those set out in the text see *Cobett v Hibbert* (1868) 19 LT 501; however, the contrary view is that the Representation of the People Act 1983 s 136(4) (as amended) is exhaustive as to the grounds of objection.

798. Hearing of objections. An application notice to determine the validity, or otherwise, of an objection to a recognisance as security for costs pursuant to an election or referendum petition[1] must be heard in chambers by a master, subject to an appeal to a judge within five days[2] after the master's decision[3]. If the objection is allowed, the master or judge having cognisance of the matter must at the same time determine what sum of money will make the security sufficient, and the petitioner may within five days thereafter remove the objection by deposit of that sum[4].

The costs of and incidental to hearing and deciding objections made to the security given on the presentation of an election petition are in the court's discretion[5].

1 As to recognisances as security for costs and the application notice referred to in the text see paras 795–796 ante. As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.

2 As to the calculation of time limits for these purposes see para 766 ante.

3 Representation of the People Act 1983 ss 136(6), 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 91(5), 136(1); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 86, 94(5); Election Petition Rules 1960, SI 1960/543, r 7(2) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 7(2) (amended by SI 1999/1398); and see note 1 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

4 Representation of the People Act 1983 s 136(7) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 48(e)(iii)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 91(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 94(6); Election Petition Rules 1960, SI 1960/543, r 7(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 7(3); and see notes 1, 3 supra.

5 See the Supreme Court Act 1981 s 51(1) (as substituted); and COSTS vol 10 (Reissue) para 4. See also para 765 ante. As from a day to be appointed, the Supreme Court Act 1981 is renamed the Senior Courts Act 1981: see the Constitutional Reform Act 2005 s 59(5), Sch 11 para 1. At the date at which this volume states the law, no such day had been appointed.

799. Time when petition is at issue. An election or referendum petition[1] is at issue[2]: (1) where the petitioner gives the security for costs as required[3] by a deposit of money equal to the amount of the security so required, at the time when the security is so given[4]; and (2) in any other case, on the expiry of the time limited for objections to a recognisance as security for costs[5] or, if an objection is made, on that objection being disallowed or removed[6], whichever happens last[7].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.
2 Representation of the People Act 1983 s 137(1) (s 137 substituted by the Political Parties, Elections and Referendums Act 2000 s 137(a), Sch 17 paras 1, 3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 92(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 95(1); and see note 1 supra.
3 As to the requirement to give security for costs see paras 794–795 ante.
4 Representation of the People Act 1983 s 137(2)(a) (as substituted: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 92(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 95(2)(a); and see note 1 supra.
5 As to objections to a recognisance see para 797 ante.
6 See para 798 ante.
7 Representation of the People Act 1983 s 137(2)(b) (as substituted: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 92(2)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 95(2)(b); and see note 1 supra.

(v) Matters Preliminary to Hearing

A. JURISDICTION AND SERVICE

800. In general. With respect to an election or referendum petition[1] and the proceedings on it, and subject to the provisions which regulate the conduct of elections and referendums[2], the High Court has the same powers, jurisdiction and authority as if the petition were an ordinary claim within its jurisdiction[3].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.
2 Ie, in relation to a parliamentary election or election under the Local Government Act 1972, the Representation of the People Act 1983 (including those provisions as applied and modified for the purposes of a local authority referendum: see note 1 supra), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) or, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293.
3 Representation of the People Act 1983 s 157(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(2); and see note 1 supra.

801. Notice of interim application. At least two clear days before the making of any interim application to the High Court, notice of it should be given at the election petitions office[1] and to the other side[2].

1 For the meaning of 'election petitions office' see para 766 note 12 ante.
2 This is the practice. See also Day's Election Cases 23.

802. Service of documents. Any notice, legal process or other document required to be served on any person with reference to any proceeding respecting an election[1] or

referendum[2] for the purpose of causing him to appear before the High Court, the county court or any election court, or otherwise, or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of the provisions governing legal proceedings in relation to election or referendums[3], may be served[4]: (1) by delivering it to that person or by leaving it at, or sending it by post by a registered letter or the recorded delivery service to, his last known place of abode in the parliamentary[5] or Welsh Assembly constituency[6], the area of the authority[7], the voting area[8], or the Welsh Assembly[9] or European parliamentary electoral region[10] (as the case may be) for which the election or referendum was held[11]; or (2) if the proceeding is one before any court, in such other manner as the court may direct[12]. In proving such service by post it is sufficient to prove that the letter was pre-paid, properly addressed, and registered or recorded with the postal operator concerned[13].

1 Ie a parliamentary election, election under the Local Government Act 1972, Welsh Assembly election or European parliamentary election. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to European parliamentary elections see para 224 et seq ante.

2 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see para 764 ante.

3 Ie, in relation to a parliamentary election or election under the Local Government Act 1972, the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (including that Part as applied and modified for the purposes of a local authority referendum: see note 2 supra), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85–137) (as amended) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86–122) (as amended) (see para 759 et seq ante).

4 Representation of the People Act 1983 s 184(1) (amended by the Political Parties, Elections and Referendums Act 2000 s 138, Sch 18 paras 1, 19(5)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 135(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(1); and see note 2 supra. The appropriate procedure for the service of the petition, the notice of presentation of the petition and of the amount of the security for costs is that laid down by the Election Petition Rules 1960, SI 1960/543, r 6 (as substituted and amended) or, in relation to a European parliamentary election, the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 6 (as substituted and amended) (see paras 766, 796 ante), and thus they prevail over the more generalised provisions of the Representation of the People Act 1983 s 184 (as amended) regarding the service of those particular documents: see *Ali v Haques* [2006] All ER (D) 113 (Oct).

5 For the meaning of 'parliamentary constituency' see para 9 ante.

6 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.

7 As to the area of the authority for which a local government election is held see para 10 ante.

8 For the meaning of 'voting area' see para 582 note 2 ante.

9 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.

10 As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante. As to service in the combined region see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(3), (4).

11 Representation of the People Act 1983 s 184(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 135(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(1)(a); and see note 2 supra.

12 Representation of the People Act 1983 s 184(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 135(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(1)(b); and see note 2 supra.

13 Representation of the People Act 1983 s 184(2) (amended by the Postal Services Act 2000 (Consequential Modifications No 1) Order 2001, SI 2001/1149, art 3(1), Sch 1 para 57(1), (3)); National

Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 135(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 122(2); and see note 2 supra. The text refers to the postal operator within the meaning of the Postal Services Act 2000 (see POST OFFICE).

B. ORDER, PLACE AND TIME OF TRIAL

803. List of petitions. The prescribed officer[1] must, as soon as may be, make out a list of all parliamentary[2] or Welsh Assembly election petitions[3] or all referendum petitions[4] (as the case may be) at issue in the order of their presentation[5]; the petitions questioning elections under the Local Government Act 1972 must be in a separate list[6]. The list of petitions at issue must be conspicuously displayed in the election petitions office[7] and be available for inspection by the public during office hours[8]. Where there are two or more petitions relating to the same parliamentary election or to elections under the Local Government Act 1972 or to the same Assembly election or return to fill a vacancy in an electoral region seat[9] or to the same referendum or to referendums (as the case may be) held at the same time for more than one electoral area in the same local government area[10], they are to be bracketed together in the list of petitions and dealt with as one petition, but they are to take their place in the list where the last of them would have stood if it had been the only petition, unless the High Court directs otherwise[11].

1 See para 768 ante.
2 As to parliamentary election petitions see para 759 ante.
3 As to Welsh Assembly election petitions see para 762 ante.
4 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. As to the questioning of an election under the Local Government Act 1972 see para 760 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
5 Representation of the People Act 1983 s 138(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 93(1)(a); and see note 4 supra. There is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293.
6 Representation of the People Act 1983 s 138(1) (amended by the Political Parties, Elections and Referendums Act 2000 ss 137, 158(2), Sch 17 paras 1, 4, Sch 22).
7 For the meaning of 'election petitions office' see para 766 note 12 ante.
8 Representation of the People Act 1983 ss 138(1)(b), 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 93(1)(b), 136(1); Election Petition Rules 1960, SI 1960/543, r 8 (amended by SI 1985/1278); and see note 4 supra.
9 Ie under the Government of Wales Act 1998 s 9 (election to fill a vacancy in an electoral region seat: see para 222 ante). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11; and para 222 ante.
10 For the meaning of 'electoral area' see para 10 ante; and for the meaning of 'local government area' see para 18 note 2 ante.
11 Representation of the People Act 1983 s 138(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 93(3); and see note 4 supra. Two or more candidates (in the case of an election) or two or more persons (in the case of a referendum) may be made respondents to the same petition, but the petition is deemed to be a separate petition against each respondent although the petitions may be tried together: see the Representation of the People Act 1983 s 138(3) (including that provision as applied and modified for the purposes of a local authority referendum: see note 4 supra); and para 789 ante. Whether two election petitions, of which one claims the seat while the other does not, may properly be tried together seems doubtful (*Maldon Case* (1853) 2 Pow R & D 143); but in *Cashel Borough Case* (1869) 1 O'M & H 286, where there were two petitions against the same respondent, of which one claimed the seat, Fitzgerald B decided that he would allow them to be opened together, but reserved his decision as to the further course. In *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213, there were two petitions, one against two respondents, which also claimed the seat, and the other claiming the seat against one of these two respondents; they appear to have been treated as two separate cases. In *Stafford Borough Case* (1869) 21 LT 210, 1 O'M & H 228, there were two petitions, in

each of which the petitioner and the respondent were different; they were treated as two different cases, although at 232 Blackburn J said that he would treat the evidence in the one case as applicable to both, except where application was made to examine or re-examine witnesses. In *Poole Case, Hurdle and Stark v Waring* (1874) 2 O'M & H 123, two petitions against the same respondent were heard together.

804. Time and place of trial. So far as convenient, election and referendum petitions[1] are to be tried in the order in which they stand in the list of petitions[2]. Within 28 days[3] after the first day on which a petition is at issue[4] the petitioner must apply by application notice to a rota judge to fix the time and place of trial and if the petitioner fails to do so, any respondent may, within a further period of 28 days, apply in the same manner as the petitioner could have done[5]. If no application is made in accordance with these provisions, the prescribed officer[6] must refer the matter to a rota judge who must thereupon fix such a time and place[7].

In general, the place of trial must be within the parliamentary[8] or Assembly constituency[9], the area of the authority[10], or the Welsh Assembly electoral region[11] (as the case may be) for which the election or referendum was held[12]. If, however, the High Court is satisfied that special circumstances exist which render it desirable that the trial should be held elsewhere, the court may appoint some other convenient place for the trial[13].

The special circumstances which must exist in order that the court may exercise its power of changing the venue of the trial must be such as to render the trial of the petition elsewhere not merely more convenient but more conducive to the ends of justice, and convenience or inconvenience is not in itself a special circumstance[14]. Without such special circumstances the High Court has no power to change the place of trial[15]. Applications for a change of venue should be made to the High Court and not to a judge in chambers[16]. If the petition is tried outside the constituency, area or region for which the election was held without the High Court's consent, the proceedings may be void[17].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Representation of the People Act 1983 s 138(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 93(2); and see note 1 supra. There is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293. As to the list of petitions see para 803 ante.

3 As to the calculation of time limits for these purposes see paras 765, 766 ante.

4 As to when the petition is at issue see para 799 ante.

5 Election Petition Rules 1960, SI 1960/543, r 9(1) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(1) (amended by SI 1999/1398). 'Rota judge' means a judge on the rota for the trial of parliamentary election petitions (as to which see para 767 ante): Election Petition Rules 1960, SI 1960/543, r 2(2); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(1). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

6 See para 768 ante.

7 Election Petition Rules 1960, SI 1960/543, r 9(2); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(2); and see note 5 supra.

8 For the meaning of 'parliamentary constituency' see para 9 ante.

9 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.

10 As to the area of the authority for which a local government election is held see para 10 ante. In the application of the Representation of the People Act 1983 s 130(6) to the election of a chairman of a parish meeting or to a poll consequent on a parish or community meeting on the question of

appointment to any office, for the words the 'area of the authority for which the election was held' there is substituted a reference to the 'district in which the parish is situate': Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 6(c).

11 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante. Where an Assembly election petition is presented, by virtue of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 86(1)(d) (see para 779 note 3 ante), by a person claiming to have had a right to be returned under the Government of Wales Act 1998 s 9 (election to fill a vacancy in an electoral region seat: see para 222 ante), the reference is to the Assembly electoral region for which a person claims to have had a right to be so returned: see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(3). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11; and para 222 ante.

12 Representation of the People Act 1983 ss 123(3), 130(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(3); and see note 1 supra. Although the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 91 is headed 'constitution of election court and place of trial', explicit provision for the place of the trial is not made therein. As to the power to adjourn the trial of a petition from one place to another see para 817 post.

13 Representation of the People Act 1983 ss 123(3)(a), 130(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(3); and see note 1 supra. If a parliamentary election petition relates to a constituency wholly or partly in Greater London, it may be heard at such place within Greater London as the High Court may appoint: Representation of the People Act 1983 s 123(3)(b).

14 *Tewkesbury Case, Collins v Price* (1880) 5 CPD 544, DC. In *Sligo Borough Case* (1869) 1 O'M & H 300, the venue was changed because a system of intimidation and violence was organised and carried out for months before and during the election, and down to and during the trial.

15 *Lawson v Chester Master, Cirencester Election Petition* [1893] 1 QB 245, in which it was held that the fact that the point in dispute would not necessitate the calling of any witnesses and that it would be more convenient and cheaper to have the petition tried in London did not constitute special circumstances. See also *Tewkesbury Case, Collins v Price* (1880) 5 CPD 544, DC, where the court expressed grave doubts as to whether the absence of accommodation at the place for which the election was held constituted special circumstances; but see *Re Hexham Election Petition* (1892) Times, 8 November; *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 319; *West Ham, North Division Case* (1911) 6 O'M & H 392; *Arch v Bentinck* (1887) 18 QBD 548.

16 *Tewkesbury Case, Collins v Price* (1880) 5 CPD 544, DC.

17 *Hudson v Tooth* (1877) 3 QBD 46.

805. Notice of time and place of trial. Notice of the time and place of trial of election and referendum petitions[1] must be given in the prescribed manner, in the case of a parliamentary, Welsh Assembly or European parliamentary election petition, not less than 14 days before the day fixed for the trial[2] and, in any other case, not less than seven days before the day fixed for the trial[3]. The prescribed officer[4] must cause notice of the appointed time and place of the trial to be displayed in a conspicuous place in the election petitions office[5] and sent by post to the petitioner, the respondent[6], the Director of Public Prosecutions and, except in the case of a European parliamentary election petition, the returning officer[7].

On receipt of the notice, the returning officer must forthwith publish it in his constituency, the electoral region or, as the case may be, the local government area to which the petition relates[8].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to the time and place of trial see para 804 ante.

2 As to the calculation of time limits for these purposes see paras 765–766 ante.

3 Representation of the People Act 1983 ss 139(1), 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 94(1), 136(1); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 86, 96(1); Election Petition Rules 1960, SI 1960/543, r 9(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(3); and see note 1 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

4 See para 768 ante.

5 For the meaning of 'election petitions office' see para 766 note 12 ante.

6 As to respondents see paras 780, 789 ante.

7 Election Petition Rules 1960, SI 1960/543, r 9(3) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 9(3); and see note 3 supra.

8 Election Petition Rules 1960, SI 1960/543, rr 2(2), 9(4) (r 9(4) amended by SI 1985/1278); and see note 3 supra. As to the costs of publication by the returning officer see para 782 note 10 ante. For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary constituency' see para 9 ante; and for the meaning of 'local government area' see para 18 note 2 ante. As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante.

C. PARTICULARS

806. Particulars of petition. Where the allegations in the petition itself are quite general it is the practice to order immediately particulars of the nature of the alleged offences[1]. Further particulars will be ordered of the circumstances of each charge, the order usually directing the petitioner to furnish particulars of the names of the different persons[2] in regard to whom the offences are alleged to have been committed, together with their addresses and numbers on the register, or, failing that, their occupation. Similarly, particulars will be ordered of the persons[3] by whom the offences are alleged to have been committed, of the time and place of the commission of each offence and of its precise character, and, in the case of charges of bribery or treating, of its degree[4].

The question of the length of time before trial in which particulars will be ordered depends on the circumstances of each case, such as the character, area and population of the electoral area and the number of witnesses whom it is proposed to call[5], and also on the number of charges alleged in the petition[6]. The fact that witnesses may be tampered with is not a ground for diminishing the time for giving particulars[7].

If the particulars are not served within the time ordered, they may be struck out at the trial[8]. If the particulars do not comply with the order in respect of which they were given, an order for further and better particulars may be obtained, or the particulars may be struck out. Previous notice of the intention to strike out the particulars should be given to the other side; but the proper course is to make objection during the trial as and when evidence is tendered which is not covered by the particulars[9].

A party giving particulars in pursuance of an order or otherwise must file a copy within 24 hours after serving the particulars to the party requiring them[10].

1 *Anderson v Cawley* (1868) 19 LT 500; *Beverley Case* (1869) 1 O'M & H 143; and see the cases mentioned in Day's Election Cases 11, 12. See also *Lancaster County, Lancaster Division Case* (1896) 5 O'M & H 39; *Shoreditch, Haggerston Division Case, Cremer v Lowles* (1896) 5 O'M & H 68. Application is usually made by summons to a judge on the rota (see para 767 ante); as a general rule the exercise of the judge's discretion will not be interfered with: *Barrow-in-Furness Case* (1886) 4 O'M & H 76, DC.

2 In *Maude v Lowley* (1874) LR 9 CP 165 at 167 (a municipal case), the court added the words 'so far as known'. In *Lenham v Barber* (1883) 10 QBD 293, DC (also a municipal case), the court refused to order the words to be added, Pollock B stating that it was his practice to omit them on the ground that they might be taken to warrant undue limitation; but in *Willes v Horniman* (1898) 14 TLR 343, CA, Grantham J inserted in his order the words 'if known', and the Court of Appeal refused to strike them out, A L Smith LJ stating that if omitted in this particular case they would probably have to be read in. The practice now is to leave them out on the ground that the person who gives the particulars can only give them so far as is known and the words are therefore implied: see *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 320.

3 *Londonderry Case* (1868) 19 LT 573; *Bristol Case, Brett v Robinson* (1870) 22 LT 487 at 488 (in the latter case, the Christian names not having been given in the particulars as delivered, an order was made for giving them); *Hastings Case, Stafford Case* (1869) 20 LT 180. In *Hexham Case* (1892) cited in Day 14, per Cave J, it was held to be insufficient to give the name of a political association as being that of the person by whom the offence charged was alleged to have been committed: the particulars should specify the name of the guilty member or members. In *Bradford Case* (1869) 19 LT 661, particulars of persons bribed and treated lumped together, not saying which was which, were held sufficient; but in *Horsham Case* (1869) 20 LT 180, Willes J considered that there should be separate lists of the persons bribed, treated, and unduly influenced.

4 For examples of particulars which have been ordered by judges in chambers, otherwise unreported see Parker's Election Agent and Returning Officer (3rd Edn).

5 *Rushmere v Isaacson* [1893] 1 QB 118, DC, where an order for delivery of particulars within seven days was, on appeal, enlarged to ten days.

6 *Cirencester Case* (1893) (cited in Day 12). In the early cases of election petitions the time allowed was generally three days: *Anderson v Cawley* (1868) 19 LT 500; *Tamworth Case, Hill v Peel* (1868) 19 LT 527; *Hereford Borough Case* (1869) 1 O'M & H 194 at 196; *Beal v Smith* (1869) LR 4 CP 145. Later the time ordered was longer, usually seven days: see *Furness v Beresford, York City Case* [1898] 1 QB 495 at 498, CA, per A L Smith LJ; *Oxford Borough Case, Green v Hall* [1889] WN 146, DC; *Clark v Wallond* (1883) 52 LJQB 321; *Lenham v Barber* (1883) 10 QBD 293, DC (a municipal case). If there are special circumstances, an affidavit setting them forth ought to be filed. In *East Manchester Case, Munro v Balfour* [1893] 1 QB 113 the time ordered was 10 days. In *Cirencester Case* supra the following sliding scale was adopted by Cave J: 10 days if charges under 80, 15 days if charges under 160, 20 days if charges above 160. In *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89, and *Southampton Borough Case* (1895) 5 O'M & H 17, a sliding scale of 10 days if charges under 80, and 12 days if over 80 was adopted. In *Grimsby Case* (1903) cited in 2 Rogers on Elections (18th Edn) p 225, and in *Shrewsbury Case* (1903) cited in 3 Rogers on Elections (18th Edn) p 304, the scale was 5 days if the charges were not over 50; but if they were over 50, 7 days; and if they were over 80, 10 days. In *Shoreditch, Haggerston Division Case, Cremer v Lowles* (1896) 5 O'M & H 68, particulars of the general charges were ordered within seven days of the order and particulars of the specific charges within ten days of the trial. Where a charge was made against a returning officer of misconduct both personal and through his deputy, stringent particulars were ordered to be delivered within six days of the order: *Warrington Case, Crozier v Rylands and Neild* (1869) 19 LT 572. In *Clark v Wallond* supra (a municipal case), the Divisional Court considered seven days the usually proper time, and refused to alter an order prescribing that time.

7 *Drogheda Borough Case* (1869) 19 LT 528.

8 *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213; but cf *Brecon Borough Case* (1869) 1 O'M & H 212, where an objection made to the admission of particulars on this ground was overruled by Martin B. The first-named case was one alleging a majority of legal votes and claiming the seat on a scrutiny.

9 *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 319–320.

10 Election Petition Rules 1960, SI 1960/543, r 17; European Parliamentary Election Petition Rules 1979, SI 1979/521, r 17. The copy must be filed in the election petitions office: Election Petition Rules 1960, SI 1960/543, r 2(5); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(4) (substituted by SI 2004/1415). For the meaning of 'election petitions office' see para 766 note 12 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

807. Particulars where general corruption charged. Where a charge of general corruption is made[1], the particulars which are ordered are necessarily wider than usual[2], and the names of particular persons alleged to have been bribed or treated will not be ordered[3]. A petitioner will, however, be ordered to specify the character and extent of the corruption alleged[4].

1 See para 893 post.

2 As to the usual particulars see para 806 ante.

3 *Beverley Case* (1869) 1 O'M & H 143; *Taunton Borough Case* (1874) 2 O'M & H 66; *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1. As to a distinction made between bribing and treating see *Wigan Case, Spencer and Prestt v Powell* supra at 2 per Grove J, where he said that the particulars of bribery must be more specific than those of treating, as one did not bribe hosts of people generally. See also *Manchester, Eastern Division Case* (1892) 4 O'M & H 120, where under a charge of general corruption the court refused to admit evidence of treating at a public house which had not been mentioned in the particulars. In *Hexham Case* (1892) cited in Day 14, and in *Worcester Borough Case, Glazzard v Allsopp* (1892) cited in

Day 12, the particulars ordered were those only of time and of place; but see, contra, *King's Lynn Case, Armes and Holditch v Bourke* (1869) 1 O'M & H 206 at 207 per Martin B, in which he objected to receive evidence of general treating from a person who had been treated whose name was not in the particulars, although he did not think that it was necessary to give the name of the public house involved.

4 *Walsall Case* (1892) cited in Day 12; *Pontefract Case, Shaw v Reckitt* (1893) cited in Day 11.

808. Amendment of particulars. If a party wishes to give evidence of any circumstances not mentioned, or insufficiently mentioned, in his particulars[1], leave to amend the particulars may be asked for before or at the trial[2]. The court's practice in dealing with such an application has not been absolutely uniform, but the course generally pursued has been to allow instances not mentioned or insufficiently mentioned in the particulars to be given in evidence if the matter is substantial and if it appears that the failure to furnish the particulars or the sufficient particulars in due time was in good faith[3]. An affidavit to that effect should be filed[4].

In granting leave for the petitioner to amend his particulars, the court will consider whether the respondent will be prejudiced by such leave, and if it is of opinion that the respondent ought to have time to be enabled to meet such evidence the court will grant an adjournment for that purpose[5], and may also in its discretion award the respondent the costs entailed by such evidence in any event[6]. Particulars which are fishing or grossly insufficient will be struck out at the trial[7]. It is not usual to order particulars to be struck out before the trial merely on the ground of being insufficient. If the petitioner obtains further information by the time of the trial, he may, with leave, supply the deficiencies in the particulars served; if not, the insufficient particulars will be struck out at the trial[8].

The court will not allow an amendment of particulars at the trial where such amendment really amounts to an amendment of the petition[9]. On the other hand, a count which discloses no valid ground of objection may be struck out[10] and clerical errors in the wording of the count may be amended[11].

1 As to the particulars generally see paras 806–807 ante.

2 See, however, *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89, where the application for leave to amend had been made to a judge in chambers and had been referred by him to be made to the judges at the trial; Pollock B considered the course a very inconvenient one, pointing out that an appeal would have lain from the judge at chambers to the Court of Appeal.

3 This seems to be the position which may be deduced from the various cases where the point has arisen. In *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 4 per Bowen J, an order for particulars drawn up in a form that the petitioners could be precluded at the trial from going into any case of which particulars have not been delivered 'can be modified at any time, and I confess I should not hesitate myself at any moment to disregard that prohibition, and to amend the order by stating that further cases might be gone into if the justice of the case required it, and if there was no danger of surprise upon the sitting member'. This statement was approved in *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 320. See also *Belfast Borough Petition* (1869) 19 LT 574, where Keogh J said that parties would not be excluded from giving evidence of instances coming to light before the trial, as had, likewise, been the custom of the House of Commons, and the court should investigate all such cases; *Bewdley Case* (1869) 1 O'M & H 16; *Carrickfergus Borough Case* (1869) 1 O'M & H 264; *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97; *Dublin City Case* (1869) 1 O'M & H 270, where Keogh J said he would allow the utmost latitude to amend unless it were evident that the party had kept back information available at the time of delivery of the particulars; *Longford Case* (1870) 2 O'M & H 6; *Harwich Borough Case* (1880) 3 O'M & H 61; *Evesham Borough Case* (1880) 3 O'M & H 94 at 95, where Hawkins J drew attention to the fact that the court could, in its discretion, after the close of the hearing, call and examine any witness, and he said that the respondent might exercise his option, subject to such power in the court, of having the evidence of charges not included in the particulars excluded during the hearing. On the other hand see *Bodmin Case* (1869) 1 O'M & H 117; *King's Lynn Case, Armes and Holditch v Bourke* (1869) 1 O'M & H 206 at 207; *Manchester, Eastern Division Case* (1892) 4 O'M & H 120 (where evidence was refused); and as to these cases see also para 848 post.

4 *Londonderry Borough Case* (1869) 1 O'M & H 274, where the respondent's counsel was allowed to cross-examine the petitioner's agent on his affidavit. See also *Cheltenham Case* (1869) 1 O'M & H 62; *Wigan Case* (1869) 1 O'M & H 188 (in each of which cases, the petition being part heard, Martin B said he could only allow the particulars to be amended by the addition of a name on an application by

summons supported by affidavit). For a form of affidavit see *Longford Case* (1870) 2 O'M & H 6 at 10n; *Manchester, Eastern Division Case* (1892) cited in Day 153.

5 As to adjournment see para 817 post.

6 *Stafford Borough Case* (1869) 21 LT 210 at 212–213, 1 O'M & H 228 at 232; *Bristol Case, George's Case* (1870) 22 LT 731, 2 O'M & H 27; *Longford Case* (1870) 2 O'M & H 6; *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152; *Bewdley Case* (1869) 1 O'M & H 16; *Hereford Borough Case* (1869) 1 O'M & H 194; *Penryn Case* (1869) 1 O'M & H 127; *Bodmin Case* (1869) 1 O'M & H 117 at 119 (where, however, Willes J discriminated between a charge implicating a sitting member personally and a charge against his agent, saying that, in the former case, he would allow the charge to be added to the particulars, giving the respondent, if necessary, time to answer it; but, in the latter case, he would only allow the charge to be added if the fact were shown to have come to the petitioner's knowledge since the delivery of the particulars); and see *Belfast Borough, Western Division Case* (1886) 4 O'M & H 105 at 106 per Dowse B; *Waterford Borough Case* (1870) 2 O'M & H 24 (where notice to amend the particulars by the addition of a name during the hearing was required to be served for the following morning, when the petitioner's agent was examined on oath as to when he had first heard it).

7 *Belfast Borough, Western Division Case* (1886) 4 O'M & H 105; *Worcester Borough Case, Glaszard and Turner v Allsopp* (1892) cited in Day 85 at 87.

8 *Worcester Borough Case* (1892) cited in Day 15; *Pontefract Case* (1892) cited in Day 15; *Walsall Case* (1900) cited in Day 15.

9 *Manchester, Eastern Division Case* (1892) 4 O'M & H 120; *Montgomery Boroughs Case, George v Pryce-Jones* (1892) cited in Day 14; *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 320, 337; and see *Cremer v Lowles* [1896] 1 QB 504, CA (where no amendment of the petition having been made, particulars of offences in connection with the return of election expenses, occurring after the presentation of the petition, were struck out).

10 *Shrewsbury Case* (1903) (a municipal petition case) cited in 2 Rogers on Elections (20th Edn) 172.

11 *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1.

D. DISCLOSURE OF DOCUMENTS

809. Disclosure and inspection of documents. The rules of court relating to the disclosure and inspection of documents[1] apply to an election or referendum petition as if it were an ordinary claim within the High Court's jurisdiction[2].

1 As to these rules see PRACTICE AND PROCEDURE vol 37 (Reissue) para 551 et seq.

2 Election Petition Rules 1960, SI 1960/543, r 2(4) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(3) (amended by SI 1999/1398; SI 2004/1415). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

810. Production and admittance of documents at trial. Notices to produce and admit documents at the trial of a petition are in the ordinary form[1]. If a notice to produce merely asks generally for the production of all documents relating to the matter in question, it will entitle the party giving it to the production of every document which ought to be filed and ought to be delivered to the returning officer, but it will not entitle him to the production of other specific documents unless he has named them in his notice to produce[2].

1 As to the general rules as to the production of documents at trial see EVIDENCE vol 17(1) (Reissue) para 813 et seq; PRACTICE AND PROCEDURE vol 37 (Reissue) para 551 et seq. The practice of the election committees appears to have regarded a general notice as sufficient, if it indicated clearly to the party on whom it was served the particular document it called for: see *Rogers v Custance* (1839) 2 Mood & R 179; *Jacob v Lee* (1837) 3 Mood & R 33. A notice to produce 'all public books, documents etc relating to voters of the borough' was held to include the charter of the borough in *Youghal Case, Brown's Case* (1838) Falc & Fitz 385. See also *Bradford Borough Case* (1869) 1 O'M & H 30 at 31 per Martin B (the petitioner may call for any document in the respondent's possession, and on being produced it becomes evidence as being a document in the respondent's possession produced by him; notice to produce must be served so as to allow the party on whom it is served reasonable time to comply with it).

2 *Westminster Borough Case* (1869) 1 O'M & H 89 at 93 per Martin B (where the petitioner called for the production of certain canvassing returns, his notice to produce saying 'all documents, books, and papers

whatsoever and in anywise relating to the matters in question in this case' was held to be too general to entitle him to the production of the documents asked for). In the same case it was held (at 94) that a party was not entitled to call for and look generally at the canvassing sheets of the other party; but in *Northallerton Case* (1869) 1 O'M & H 167 at 168–169, Willes J held that a petitioner was entitled to ask for any particular entry in the respondent's canvass book.

E. WITHDRAWAL OF PETITION

811. Application for permission to withdraw petition. A petitioner may not withdraw an election or referendum petition[1] without the permission of the election court or the High Court[2] on application made by application notice to the election court or a Divisional Court at such time and place as the court may appoint[3]. If there is more than one petitioner, all must consent to the making of the application[4]. Not less than seven days[5] before the day so appointed, the petitioner must serve the application notice on the respondent, the returning officer and the Director of Public Prosecutions and lodge a copy in the election petitions office[6], and must also publish notice of the intended application in at least one newspaper circulating in the parliamentary[7] or Welsh Assembly constituency[8], local government area[9], or Welsh Assembly[10] or European parliamentary electoral region[11] (as the case may be) to which the petition relates[12]. The application notice must state the grounds on which the application to withdraw is made and contain a statement to the effect that on the hearing of the application any person who might have been a petitioner in respect of the election or referendum may apply to the court to be substituted as a petitioner[13]. The application to withdraw a petition must not be made until notice has been given in (as the case may be) the parliamentary or Welsh Assembly constituency, local government area or Welsh Assembly or European parliamentary electoral region to which the petition relates[14]. On receipt of the notice the returning officer must forthwith publish it in his constituency, the electoral region or, as the case may be, the local government area[15].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Leave to withdraw so that another petitioner could be substituted was refused in circumstances when the petitioner who withdrew did not have capacity to bring an election petition (as to which see para 779 ante) and the petitioner who would be substituted would have such capacity: *Hobson v Fishburn* (1988) Times, 21 November, DC. In that case, a candidate who was too young to be duly elected was refused leave to amend the petition (see para 784 note 11 ante) and was refused leave to withdraw since that would allow him (and a substitute petitioner) to achieve what the court had refused by way of amendment. As to other circumstances when leave might be refused see *Halifax Case* (1893) 4 O'M & H 203; *North Meath Case* (1892) Day 141. Since corrupt and illegal practices cannot now be prosecuted before an election court (see the Representation of the People Act 1985 s 24, Sch 4 para 58), the Director of Public Prosecutions would no longer appear to have any interest in whether or not the petition is withdrawn: cf *Shoreditch, Haggerston Division Case, Cremer v Lowles* (1886) 5 O'M & H 68 at 88.

3 Representation of the People Act 1983 ss 147(1), 185; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 102(1), 136(1); European Parliamentary Elections Regulations 2004, SI 2004/293, regs 86, 102(1); Election Petition Rules 1960, SI 1960/543, r 12(1) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 12(1) (amended by SI 1999/1398); and see note 1 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

Where on the opening of the trial of an election petition it was announced that the petitioner had decided to withdraw, the hearing was adjourned in order that the statutory notice should be given: *Hartlepool Election Petition* (1869) 19 LT 821. In *Devonport Case* (1886) 54 LT 733, 2 TLR 345, an application for permission to withdraw the petition was made to a Divisional Court consisting of two

judges neither of whom was on the rota. See also *Nichol v Fearby* [1923] 1 KB 480 at 493–494 per McCardie J; *Shaw v Reckitt (Pontefract Election Petition)* [1893] 2 QB 59, CA.

If it is sought to withdraw a parliamentary election petition, not in the prescribed manner, but by offering no evidence at the hearing, the court will make a special report to that effect to the Speaker of the House of Commons: *Hartlepool Election Petition* supra at 822 per Blackburn J. If the withdrawal of a petition is effected by fraud or collusion between the parties, or if material facts are withheld and there is any deception of the court, it is possible that the court might be able to recall its permission to withdraw or the House of Commons might be petitioned to direct a fresh trial: see *Taunton Case, Waygood v James* (1869) LR 4 CP 361 at 369, 372–373; *Nottingham Case* (1879) (reported in Cunningham on Elections (3rd Edn) p 644); and see *Dungarvan Borough Case* (1854) 2 Pow R & D 300 at 318; but in *Norwich Case* (1853) 108 Commons Journals 282, 364, and in *Pontefract Case* (1859) 114 Commons Journals 357, the point was left undecided. Cf para 856 note 6 post.

4 Representation of the People Act 1983 s 147(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 102(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 102(3); and see note 1 supra.

5 As to the calculation of time limits for these purposes see paras 765–766 ante.

6 Election Petition Rules 1960, SI 1960/543, r 12(2)(a) (r 12(2) amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 12(2)(a), (b) (r 12(2) substituted by SI 2004/1415); and see note 3 supra. For the meaning of 'election petitions office' see para 766 note 12 ante. As to respondents see paras 780, 789 ante.

7 For the meaning of 'parliamentary constituency' see para 9 ante.

8 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.

9 For the meaning of 'local government area' see para 18 note 2 ante.

10 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.

11 As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante.

12 Election Petition Rules 1960, SI 1960/543, rr 2(2) 12(2)(b) (as amended: see note 6 supra); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 12(2)(c) (as substituted: see note 6 supra); and see note 3 supra.

13 Election Petition Rules 1960, SI 1960/543, r 12(3) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 12(3) (amended by SI 1999/1398); and see note 3 supra. The majority of withdrawals follow on an adverse recount: see eg *York City Case, Furness v Beresford* (1898) 5 O'M & H 118; *Christchurch Case* (1901) 5 O'M & H 147; *Denbighshire Boroughs Case* (1910) 6 O'M & H 57; *Wiltshire, North Western Chippenham, Case* (1911) 6 O'M & H 99; *Mile End Division, Tower Hamlets, Case* (1911) 6 O'M & H 100; *Gloucester Borough Case, Lynch v Terrell* (1911) 6 O'M & H 101; *St Pancras, West Division Case* (1911) 6 O'M & H 102.

14 Representation of the People Act 1983 s 147(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 102(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 102(2); and see note 1 supra. Notwithstanding the statutory provision and the rules relating to the withdrawal of a petition, cases are reported to have been 'withdrawn' on an application made on or during the hearing without apparently complying with the statutory and prescribed requirements, but it seems that the procedure described as a withdrawal was, in fact, a dismissal of the petition on the petitioner's application: see eg *Pembroke Boroughs Case* (1901) 5 O'M & H 135 (application for leave to withdraw granted by the court after the court had decided a question of the conclusiveness of the register against the petitioner); *Christchurch Case* (1901) 5 O'M & H 147 (application after recount and after filing of affidavits and after giving notice to Director of Public Prosecutions). See also *York City Case, Furness v Beresford* (1898) 5 O'M & H 118. Cf *Halifax Case* (1893) 4 O'M & H 203 (application to withdraw refused on the ground of insufficiency of affidavits); *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89 at 116 (after the result of the hearing of the petition and recriminatory case was determined, the parties agreed to drop further proceedings in the prayer for recount and scrutiny; the court consented to the agreement and the petition stood dismissed).

15 Election Petition Rules 1960, SI 1960/543, rr 2(2), 12(4) (r 12(4) amended by SI 1999/1352); European Parliamentary Election Rules 1979, SI 1979/521, r 12(4) (substituted by SI 2004/1415); and see note 3 supra. As to the costs of publication by the returning officer see para 782 note 10 ante.

F. CONTINUATION, STAY OR DISMISSAL OF PETITION

812. Continuation of trial despite the occurrence of certain events. A petitioner who, after the presentation of his parliamentary election petition[1], becomes a

member of the House of Lords, may apparently proceed with the petition[2]. The death of a respondent does not abate the petition[3]. A parliamentary election petition drops by the fact that Parliament is dissolved while the petition is pending[4], but it proceeds notwithstanding a prorogation of Parliament or the acceptance by the respondent of an office vacating his seat in Parliament[5]. The trial of a Welsh Assembly election petition[6] proceeds notwithstanding a respondent having resigned his seat or if he becomes disqualified from being an Assembly member[7] so that his seat is vacant[8]; and the trial of a European parliamentary election petition[9] is to be proceeded with notwithstanding that one (or more) of the respondents is no longer an member of the European Parliament ('MEP')[10]. The trial of a petition questioning an election under the Local Government Act 1972[11] proceeds notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition[12].

1 As to parliamentary election petitions see para 759 ante.
2 *Belfast Borough Case* (1842) Bar & Aust 553 at 554, where a motion before the House of Commons for the dismissal of a petition on this ground was, after argument, dropped. It seems that a person who has been returned for one place is not for that reason debarred from petitioning in another (see Orme's Election Laws p 261); and a person petitioning in one place is capable of being elected and returned for another, alhough apparently he must make his choice for which of the places he will sit if and as soon as the controverted return is altered in his favour (21 Commons Journals (1728) 135).
3 *Tipperary County Case* (1875) 3 O'M & H 19; *Ludgershall Case* (1791) 1 Peck 377n; *Dublin City Case* (1836) 91 Commons Journals 363 at 364.
4 *Carter v Mills* (1874) LR 9 CP 117; *Marshall v James* (1874) LR 9 CP 702.
5 Representation of the People Act 1983 s 139(3). As to the disqualification for membership of the House of Commons see para 231 ante.
6 As to Welsh Assembly election petitions see para 762 ante.
7 For the meaning of 'Assembly member' see para 12 ante. As to the qualifications for membership of the National Assembly for Wales see para 234 ante.
8 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(3).
9 As to European parliamentary election petitions see para 763 ante.
10 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(3).
11 As to the questioning of an election under the Local Government Act 1972 see para 760 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
12 Representation of the People Act 1983 s 139(3).

813. Application for stay or dismissal of petition. Before the day fixed for the trial[1], a respondent[2] may apply for the stay or dismissal of an election or referendum petition[3]. The application must be made by application notice to the election court or a Divisional Court at such time and place as the court may appoint[4]. Not less than seven days[5] before the date so appointed the respondent must serve the application notice, stating his grounds, on the petitioner, any other respondent, the returning officer and the Director of Public Prosecutions[6], and he must lodge a copy at the election petitions office[7]. An application may similarly be made to the High Court to take off the file a petition that is bad on the face of it[8].

1 As to the time and place of trial see para 804 ante.
2 As to respondents see paras 780, 789 ante.
3 Election Petition Rules 1960, SI 1960/543, r 13(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 13(1). As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

As to cases where application has been made for relief in respect of an election, after a petition relating to it has been presented, see para 698 ante. In *Hackney Case* (1874) 2 O'M & H 77, a summons

to have the petition dismissed was taken out, but was, after argument, dismissed. In *Halifax Case* (1893) 4 O'M & H 203, a recount having already been granted, and having shown a majority of votes for the respondent, the petitioner, on the petition coming on for hearing, applied to the election court for leave to withdraw it, which was refused, and the respondent applied for a certificate that he had been duly elected, but his application was refused; Hawkins J said the court could not dismiss the petition without hearing it, and he differentiated the case from the *Renfrew County Case* (1874) 2 O'M & H 213 on the ground that in the latter case the petitioner had been heard, inasmuch as the recount had taken place in open court.

4 Election Petition Rules 1960, SI 1960/543, r 13(1) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 13(1) (amended by SI 1999/1398); and see note 3 supra.

5 As to the calculation of time limits for these purposes see paras 765–766 ante.

6 Election Petition Rules 1960, SI 1960/543, r 13(2) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 13(2)(a) (r 13(2) substituted by SI 2004/1415); and see note 3 supra.

7 Election Petition Rules 1960, SI 1960/543, r 13(2); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 13(2)(b) (as substituted: see note 6 supra); and see note 3 supra. For the meaning of 'election petitions office' see para 766 note 12 ante.

8 *Pope v Bruton* (1900) 17 TLR 182, DC, where the ground was that a petition did not lie; *Cox v Davies* [1898] 2 QB 202, DC, where the ground was that the petition did not disclose a valid ground of objection. In *Re Counter's Petition, Buckingham v Counter* as reported in [1938] 2 KB 90, CA, an application was made to strike out a petition on the ground that it was presented out of time.

G. PROCEEDING BY WAY OF SPECIAL CASE STATED

814. Petition proceeding by way of special case stated rather than by trial. If it appears to the High Court, on the application made in the prescribed manner of any party to an election or referendum petition[1], that the case raised by the petition can be conveniently stated as a special case, it may direct the case to be stated accordingly and the special case will be heard before the High Court[2]. The only additional material that should be appended to a special case should be material which the parties are agreed that the court should take full account of[3]. Only one counsel has a right to be heard on either side, although as a matter of exceptional indulgence the court may hear two[4]. The Divisional Court's decision on a case thus stated to it is final unless that court gives special leave to appeal on a question of law[5]. The Divisional Court may give special leave to appeal on any question of law[6], and if, accordingly, an appeal is made, the Court of Appeal's decision is final and conclusive[7].

In the case of a parliamentary election petition, the High Court's decision on the special case must be certified by it to the Speaker of the House of Commons[8]. In the case of a petition questioning either an election under the Local Government Act 1972 or a local authority referendum, a statement of the decision on the special case must be sent by the High Court to the Secretary of State[9] and must also be certified by the High Court by the signature of two or more of its judges to the proper officer of the authority for which the election or referendum (as the case may be) was held[10]. In the case of a Welsh Assembly election petition, the High Court must certify to the presiding officer of the Assembly[11] its decision on the special case[12]; and, in the case of a European parliamentary election petition, the court's decision must be certified by it to the Secretary of State[13].

1 The application must be made by application notice to a Divisional Court: Election Petition Rules 1960, SI 1960/543, r 11 (amended by SI 1985/1278; SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 11 (amended by SI 1999/1398; SI 2004/1415). As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to the application and modification of the Election Petition

Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions and for the purposes of a local authority referendum petition see para 765 note 3 ante.

2 Representation of the People Act 1983 s 146(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 101(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 101(1); and see note 1 supra. Proceeding by way of special case stated means that the petition must be determined on the basis of the facts set out in the special case, rather than on the basis of facts as they might be found by the court: see *Considine v Didrichsen* [2004] EWHC 2711 (QB) at [2], [2004] All ER (D) 365 (Nov) at [2]. In *Re West Suffolk County Council (East Ward) Election* (1964) 108 Sol Jo 604, DC, where a candidate was disqualified and admitted it, the court did not order the case to be stated but decided to hear the case and declared the election void, notwithstanding that there was no provision for this more direct course in the election petition rules. It seems that it is not open to respondents in such proceedings, as it is open to them in appeals by way of case stated by justices, to seek to uphold the decision given in their favour on grounds not relied on when it was made: *Evans v Thomas* [1962] 2 QB 350 at 370, [1962] 3 All ER 108 at 118, DC, per Winn J.

3 See *Considine v Didrichsen* [2004] EWHC 2711 (QB) at [2], [2004] All ER (D) 365 (Nov) at [2], where it was agreed that the court should take account of contemporaneous documents appended to the case, but should not take account of other factual material which has been appended to it.

4 *Re Gloucestershire, Thornbury Division, Election Petition* (1886) 16 QBD 739 at 746.

5 Representation of the People Act 1983 s 157(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(1); and see note 1 supra. See *Unwin v McMullen* [1891] 1 QB 694, 699, CA; *Shaw v Reckitt (Pontefract Election Petition)* [1893] 2 QB 59, CA; *Everett v Griffiths (No 3)* [1923] 1 KB 138, CA.

6 *Line v Warren* (1885) 14 QBD 548, CA; *Beresford-Hope v Lady Sandhurst* (1889) 23 QBD 79, CA.

7 Representation of the People Act 1983 s 157(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(1); and see note 1 supra.

8 Representation of the People Act 1983 s 146(2). 'Speaker' includes Deputy Speaker and, where the office of Speaker is vacant, Clerk of the House of Commons, or any other officer for the time being performing the duties of Clerk of the House of Commons: s 185. The granting of a certificate may be postponed on reference of a question of law, a much less common procedure: see para 855 post.

9 As to the Secretary of State see para 2 ante.

10 Representation of the People Act 1983 s 146(3); and see note 1 supra. For the meaning of 'proper officer' generally see para 155 note 2 ante; but for these purposes in relation to parish and community elections see para 761 ante.

11 As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 101(2).

13 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 101(2).

(vi) The Hearing

A. IN GENERAL

815. Mode of trial and procedure and practice in general. An election or referendum petition[1] must be tried in open court and without a jury[2]. Subject to the provisions of the Representation of the People Act 1983[3] (and, in relation to a Welsh Assembly election, the rules provided as to the conduct of elections for the return of Assembly members[4]) and subject to the rules governing the procedure for petitions[5], the principles, practice and rules on which committees of the House of Commons used to act in dealing with election petitions must be observed, so far as may be, by the High Court and election court in the case of parliamentary and Welsh Assembly election petitions or referendum petitions[6]. In particular, the principles and rules with regard to agency[7] and evidence[8], and to scrutiny[9], and to declaring any person elected in place of any other person declared not to have been duly elected[10], must be observed, so far as may be, in the case of a petition questioning an election under the Local Government Act 1972 as in the case of a petition questioning a parliamentary election or return[11]. It is provided by election petition rules[12], however, that subject to those rules and subject to the provisions of the Representation of the People Act 1983[13] (and, in relation to a

Welsh Assembly election, the rules provided as to the conduct of elections for the return of Assembly members[14] and, in relation to a European parliamentary election, the European parliamentary elections rules[15]), the practice and procedure of the High Court are to apply to an election or referendum petition as if it were an ordinary claim within the High Court's jurisdiction notwithstanding any different practice, principle or rule on which the committees of the House of Commons used to act in dealing with election petitions[16].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
2 Representation of the People Act 1983 s 139(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(1); and see note 1 supra.
3 Ie including those provisions as applied and modified for the purposes of a local authority referendum (see note 1 supra).
4 Ie the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see para 388 ante).
5 Ie the Election Petition Rules 1960, SI 1960/543 (as amended), including those rules as applied and modified for the purposes of Welsh Assembly election petitions and local authority referendum petitions (see para 765 ante).
6 Representation of the People Act 1983 s 157(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(2); and see note 1 supra. There is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293. As to the relevance of the principles, practice and rules on which committees of the House of Commons used to act see paras 769, 777 ante.
7 As to evidence of agency see para 252 et seq ante.
8 As to evidence generally see para 829 et seq post.
9 As to scrutiny see para 837 et seq post.
10 As to the effect of any judgment see para 856 et seq post.
11 Representation of the People Act 1983 s 157(2).
12 Ie the Election Petition Rules 1960, SI 1960/543 (as amended) (including those rules as applied and modified for the purposes of Welsh Assembly election petitions and local authority referendum petitions (see note 5 ante)) and, in relation to a European parliamentary election petition, the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended) (see para 765 ante).
13 See note 3 supra.
14 See note 4 supra.
15 For the meaning of 'European parliamentary elections rules' see para 388 ante.
16 Election Petition Rules 1960, SI 1960/543, r 2(4) (amended by SI 1999/1352); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(3) (amended by SI 1999/1398; SI 2004/1415); and see note 5 supra. This provision has the effect of limiting the scope of the other provisions set out in the text and notes 1–11 supra.

816. Attendance of shorthand writers. The shorthand writer of the House of Commons or his deputy must attend the trial of a parliamentary election petition[1] and the National Assembly for Wales requires a shorthand writer to attend the trial of an Assembly election petition[2]. The shorthand writer that so attends must be sworn by one of the judges of the election court faithfully and truly to take down the evidence given at the trial and from time to time, as occasion requires, to transcribe that evidence or cause it to be transcribed[3]. Accordingly, the shorthand writer must take down the evidence and from time to time transcribe it or cause it to be transcribed, and a copy of the evidence must accompany the certificate given by the election court (at the trial of a parliamentary election petition) to the Speaker of the House of Commons or (at the trial of an Assembly election petition) to the presiding officer of the Assembly[4].

In the case of the trial of a petition questioning an election under the Local Government Act 1972[5] or a local authority referendum[6], the shorthand writer who is to

attend the trial must be appointed by the commissioner to whom the trial is assigned and must be sworn by the election court faithfully and truly to take down the evidence given at the trial[7]. He must take down the evidence at length and, if the election court so directs, a transcript of the notes of the evidence taken down by him must accompany the court's certificate[8].

1 Representation of the People Act 1983 s 126(1). As to parliamentary election petitions see para 759 ante.
2 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 90(1). As to Welsh Assembly election petitions see para 762 ante.
3 Representation of the People Act 1983 s 126(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 90(1). There is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293.
4 Representation of the People Act 1983 s 126(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 90(2). As to the Speaker see para 814 note 8 ante. As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS. As to the certificate given by the court see para 856 post.
5 As to the questioning of an election under the Local Government Act 1972 see para 760 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
6 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.
7 Representation of the People Act 1983 s 131(3)(a); Election Petition Rules 1960, SI 1960/543, r 18(1) (amended by SI 1985/1278); and see note 6 supra. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of a local authority referendum petition see para 765 note 3 ante.
8 Representation of the People Act 1983 s 131(3); and see note 6 supra. As to the shorthand writer's expenses see para 776 ante. As to the certificate given by the court on the determination of a local government election petition see para 859 post; and as to the certificate so given on the determination of a local authority referendum petition see para 864 post.

B. ADJOURNMENT OF TRIAL OF PETITION

817. Power to adjourn. The election court for the trial of a parliamentary election petition[1] may adjourn the trial from one place to any other place within the constituency[2]. The election court for the trial of a petition questioning an election under the Local Government Act 1972[3] or local authority referendum[4] may in its discretion adjourn the trial from any one place to any other place within the local government area or place where it is held[5]. At the trial of a Welsh Assembly election petition[6], the election court may adjourn the trial from one place to another within the Assembly constituency or electoral region[7].

The election court for the trial of any election petition[8] may in its discretion adjourn the trial from time to time, but the trial must, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion[9].

1 As to parliamentary election petitions see para 759 ante.
2 Representation of the People Act 1983 s 123(4). For the meaning of 'parliamentary constituency' see para 9 ante.
3 For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to the questioning of an election under the Local Government Act 1972 see para 760 ante.
4 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.
5 Representation of the People Act 1983 s 130(7); and see note 4 supra. For the meaning of 'local government area' see para 18 note 2 ante.
6 As to Welsh Assembly election petitions see para 762 ante.
7 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 88(4). For the meanings of 'Assembly constituency' and 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.

8 Ie including European parliamentary election petitions (as to which see para 763 ante). However, there is no equivalent provision under the European Parliamentary Elections Regulations 2004, SI 2004/293, to that set out in relation to other election or referendum petitions in the text and notes 1–7 supra.

9 Representation of the People Act 1983 s 139(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(2).

C. DUTIES OF PARTIES AND OF THE DIRECTOR OF PUBLIC PROSECUTIONS

818. Duty of parties and court. There is no obligation on the petitioner's counsel to pursue charges, even though there may be good foundation for them, if by the establishment or admission of other charges he has already attained the avoidance of the election[1].

When the issue between the parties has been decided, there is no duty cast on either of them to continue the inquiry in the public interest for the purposes of ascertaining to what, if any, extent corrupt or illegal practices have prevailed; the object of the petition being gained, there is an end of the inquiry so far as the parties are concerned[2].

The court will only require such further evidence to be called as is necessary to enable it to report whether corrupt or illegal practices have extensively prevailed or not and also to see whether, in respect of offences with which particular individuals have been charged, it ought to report those individuals[3].

1 *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152 at 156 per Bramwell B.

2 See *Wakefield Case* (1874) 2 O'M & H 100 per Grove J, cited in the *Barnstaple Case* (1874) 2 O'M & H 105 at 109.

3 *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 209. As to the items that must be stated in the report of an election court (including whether corrupt or illegal practices have extensively prevailed at the election) see para 857 et seq post. It has been suggested that the election court has a duty to investigate any allegation of corrupt or illegal practices brought to its notice and that the trial cannot be shortened by concessions made by the parties: see *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70; *Louth, Northern Division Case* (1911) 6 O'M & H 103; *Monmouth Boroughs Case* (1901) 5 O'M & H 166; *Maidstone Borough Case, Cornwallis v Barker* (1901) 5 O'M & H 149 at 151; *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212 at 215. However, it is for consideration whether these views remain correct since persons can no longer be prosecuted for corrupt and illegal practices before election courts: see the Representation of the People Act 1985 s 24, Sch 4 para 58.

819. Duty of the Director of Public Prosecutions in relation to trial of election petition. The Director of Public Prosecutions[1] may, and if the election court so requests, must attend the trial of every election petition[2] by himself or by his assistant or by a representative, who must be a barrister or a solicitor nominated by him to be his representative for this purpose[3].

If it appears to the Director that any person is able to give material evidence as to the subject of the trial, it becomes his duty, without any direction from the election court, to cause that person to attend the trial, and, with the court's permission, to examine that person as a witness[4]. The Director has no right to cross-examine witnesses called by either party on the hearing, although he may call witnesses[5]. With the court's leave he may examine witnesses called by the parties at the trial, but he ought not to ask for leave to do so without substantial cause[6]. It is no part of his duties to call evidence with respect to matters at issue between the parties, although if there should be, in his opinion, a collusive withholding of evidence it would be his duty to call that evidence himself[7]. He is not concerned with the proof of agency as affecting a party to an election petition, and the court will not give him leave to cross-examine witnesses for that purpose, but he is concerned with proving to the court that the witnesses themselves have been guilty of offences[8].

Where information is given to the Director of Public Prosecutions that any offence has been committed in relation to an election, it is his duty to make such inquiries and institute such prosecutions as the circumstances appear to him to require[9].

1 As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) paras 1066, 1079 et seq.

2 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

3 Representation of the People Act 1983 s 181(2), (3) (s 181(2), (3) amended by the Representation of the People Act 1985 s 24, Sch 4 para 63); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(2), (3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(2), (3). In the application of reg 119(2), (3) to elections that have taken place in the combined region (as to which see para 76 ante), the reference to the Director of Public Prosecutions is to be construed as a reference to the Attorney General for Gibraltar: reg 119(7). As to the payment of the expenses of the Director of Public Prosecutions or his representative see para 875 post.

4 Representation of the People Act 1983 s 140(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 95(5). See also para 822 note 3 post. This provision is applied also for the purposes of trying a petition questioning a local authority referendum: see para 764 ante. The Director is bound to obey the court's directions as to the examination of such a person: *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 37 per Denman J.

5 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 37 per Denman J; *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 115. Generally speaking, the Director's duties are confined to assisting the court at the conclusion of the hearing of the petition in considering whether any particular individual has been guilty of corrupt or illegal practices: *Rochester Borough Case* (1892) 4 O'M & H 156 at 158.

6 See note 5 supra.

7 The court ought, however, to be very cautious in allowing such evidence to be called by him: *Rochester Borough Case* (1892) 4 O'M & H 156 at 158 per Cave J.

Where, after the hearing was closed and before judgment was delivered, the Director, under the court's direction, called a person who was said to have been bribed, and the petitioner claimed the right to cross-examine that person, he was not allowed to do so, on the ground that if he had wanted to ask the witness questions he should himself have called him: *Maidstone Borough Case, Evans v Viscount Castlereagh* (1906) 5 O'M & H 200 at 211 per Grantham J; but see *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212, where, after the respondent had abandoned his opposition to the petition, the petitioner was allowed to cross-examine a witness called to show cause why he should not be reported. In *Northumberland, Hexham Division Case* (1892) cited in Day 29, both the petitioner and the respondent were allowed to cross-examine a witness called by the Director on matters gone into by the court; the question of the right to cross-examine on other matters which were in the particulars was raised but not decided. As to cross-examination on behalf of the parties after a witness has been examined by the court see also para 822 post.

8 *Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 at 144 per Cave J. See also *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212.

9 As to the duty of the Director of Public Prosecutions in relation to election offences see para 880 post.

820. Member of House of Commons may not appear at trial of parliamentary election petition. A barrister who is also a member of the House of Commons may not appear as counsel on the trial of a parliamentary election petition[1].

1 See *Re Lord Kinross* [1905] AC 468 at 471–472, HL, per Lord James. The objection appears to be founded on the fact that a court trying a parliamentary election petition has the duty of reporting to the House of Commons, and therefore a barrister practising before it would be practising before a tribunal of which he is a member: *Re Lord Kinross* supra; and see BARRISTERS vol 3(1) (2005 Reissue) para 639. As to parliamentary election petitions see para 759 ante.

D. WITNESSES AT ELECTION COURT

821. Attendance and swearing of witnesses at election court. At the trial of an election or referendum petition[1], witnesses are summoned and sworn in the same

manner as nearly as circumstances admit as in a claim tried in the High Court[2]. On the trial, a member of the election court may, by order signed by him, require the attendance of any person, as a witness, who appears to him to have been concerned in the election[3] or referendum in question, and any person who refuses to obey the order is guilty of contempt of court[4].

It is not illegal to offer a reward for evidence[5].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Representation of the People Act 1983 s 140(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(1); and see note 1 supra. As to the attendance of witnesses generally and the giving of evidence on oath see EVIDENCE vol 17(1) (Reissue) para 984 et seq.

3 Ie, in the case of a Welsh Assembly election, including a return under the Government of Wales Act 2006 s 9(6) (vacancy in electoral region seat: see para 222 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(2). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and para 222 ante.

4 Representation of the People Act 1983 s 140(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(2); and see note 1 supra. This power has been exercised where witnesses have failed to attend on subpœna (*Norwich Case, Tillett v Stracey* (1869) 1 O'M & H 8 at 9 per Martin B; *Galway County Case* (1872) 2 O'M & H 46 at 50–51); and an order has also been granted where a witness was stated to be evading the service of a subpœna (*Waterford Borough Case* (1870) 2 O'M & H 1 at 3). In *Stroud Case, Baynes v Stanton and Dickinson* (1874) 2 O'M & H 107, the court was adjourned in order that a witness should be compelled to attend.

5 *Mallow Borough Case* (1870) 2 O'M & H 18 at 19. The offering of large sums in small constituencies, however, has been said to be objectionable: *Mallow Borough Case* supra at 19 per Morris J.

822. Examination of witnesses by election court. The election court may examine any person required to attend the trial of an election or referendum petition[1] as a witness[2] or who is in court, even though he is not called and examined by any party to the petition[3]. After any witness has been examined by the court he may be cross-examined by or on behalf of the petitioner and the respondent[4], or either of them[5]. Except in so far as the common law rules of evidence, practice and procedure have been applied to election petitions in pursuance of statute or by rule[6], they are not, as such, binding on judges presiding at the trial of an election petition[7].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to the attendance of witnesses at an election court see para 821 ante.

3 Representation of the People Act 1983 s 140(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(3); and see note 1 supra. See *Evesham Borough Case* (1880) 3 O'M & H 94 at 95–96; *Montgomery Boroughs Case* (1892) 4 O'M & H 167 at 169–170 (in which case Pollock B cited *Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 as an authority for a statement which he made that the court had power to call witnesses to clear up any matter that had arisen in the course of the trial; but in *Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* supra the court seems to have directed counsel for the Director of Public Prosecutions to call

the witnesses, and in *Montgomery Boroughs Case supra*, Wills J said, where witnesses were not cross-examined, that the court might call on the public prosecutor to cross-examine). The common law does not admit of this being done except by the parties' consent: see *Re Enoch and Zaretzky, Bock & Co* [1910] 1 KB 327, CA. The court appears to have discretion in the matter. As long as the parties are at arm's length it does not seem usual for the court to call (as between petitioner and respondent) a witness whom both sides have abstained from calling, although after the conclusion of the parties' cases this is often done: see *Hartlepool Case* (1910) Times, 4 May; and cf *Montgomery Boroughs Case* supra.

4 As to respondents see paras 780, 789 ante.

5 Representation of the People Act 1983 s 140(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(4); and see note 1 supra.

6 As to the application of rules of practice and procedure in the case of election or referendum petitions see para 815 ante.

7 See *North Norfolk Case* (1869) 1 O'M & H 236 at 239 per Blackburn J; *Wells v Wren, Wallingford Case* (1880) 5 CPD 546; but see, contra, *Cheltenham Case, Gardner v Samuelson* (1869) 1 O'M & H 62 at 63; *Bradford Borough Case (No 1)* (1869) 1 O'M & H 30 at 31. Election courts are required to observe the principles, practice and rules on which the committees of the House of Commons used to act on dealing with election petitions: see para 815 ante. The common law rules of evidence were, in general, observed by committees of the House of Commons in trying election petitions, but it was stated that election committees had greater latitude in questions of evidence than courts of law: see *Bedford Case* (1838) Falc & Fitz 429 at 436. See also *Galway County Case* (1872) 2 O'M & H 46 at 51–52, where Keogh J, admitting, on a charge of spiritual intimidation, evidence of references made outside the trial of the petition since its opening, observed that in *Mayo County Case* (1857) Wolf & D 1 the election committee had received evidence of what was passing in the county pending the very hearing of the petition, and that, except where a special alteration had been made by statute, the election court must be guided, as far as possible, by the practice of Parliament; but see the cases dealing with the cross-examination by a party of his own witnesses cited in para 826 post. As to the production of documents see para 810 note 1 ante; as to statements and admissions by parties see para 831 post; and as to statements by voters to third parties see para 832 note 2 post. In *Maidstone Borough Case, Evans v Viscount Castlereagh* (1906) 5 O'M & H 200 at 202, Lawrance J said: 'It is true that in election cases we have to throw overboard the rules which regulate ordinary cases, because we have to deal with peculiar circumstances'. Hearsay evidence is not normally admissible: see *Dover Case* (1869) 1 O'M & H 210; *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1 at 8. Cf *Bridgewater Case* (1869) 1 O'M & H 112; *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152; *Taunton Borough Case* (1874) 2 O'M & H 66 at 69.

823. Evidence on commission. There is power to order a commission for the examination of a witness at an election court who is dangerously ill[1]. Evidence on commission has also been taken in the case of a witness about to leave the country[2]. If the order is made at the trial, the practice is to have the examination taken before the court registrar[3]. The shorthand writer must attend, and counsel may attend[4].

1 *Staleybridge Case* (1869) 19 LT 703; *Wells v Wren, Wallingford Case* (1880) 5 CPD 546 at 550 per Lord Coleridge CJ; *R v Maidenhead Corpn* (1882) 9 QBD 494 at 500, CA, per Jessell MR. As to the examination of witnesses at an election court see para 822 ante.

2 *Exeter Case* (1911) 6 O'M & H 228, where the evidence was taken before a commissioner.

3 *Wallingford Case* (1869) 1 O'M & H 57; *Montgomery Boroughs Case* (1892) 4 O'M & H 167 (not reported on this point).

4 See *Wallingford Case* (1869) 1 O'M & H 57 at 58. As to the attendance of shorthand writers at the trial see para 816 ante.

824. Perjury. A witness at an election court may be proceeded against for perjury committed at the trial of an election petition[1].

1 See the Perjury Act 1911 s 1(1), (2); and CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(2) (2006 Reissue) para 712 et seq.

825. Ordering witnesses to withdraw. It seems that the election court may order witnesses to remain outside, even though the petition may contain charges against them[1].

1 *Montgomery Boroughs Case* (1892) 4 O'M & H 167. Where, however, other witnesses against whom charges are made are ordered out of court, the respondent's election agent may be allowed to remain:

Knaresborough Case (1880) 3 O'M & H 141 at 142, where the respondent's counsel had asked that the election agent might be allowed to remain in court in order that he might receive instructions from him for cross-examination, and Lush J, in granting leave, likened the position of the election agent to that of a solicitor. As to the attendance of witnesses at an election court see para 821 ante.

826. Cross-examination. The election court will allow a party to cross-examine his own witness if, in the court's opinion, the witness is hostile[1], and where the witness may be cross-examined, the party may also call evidence to contradict him[2].

1 *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 104 per Willes J. As to the examination of witnesses at an election court see para 822 ante.

2 *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 104; *Lichfield Case, Anson v Dyott* (1869) 1 O'M & H 22 at 24 per Willes J; but see, contra, *Bridgewater Case* (1869) 1 O'M & H 112 at 114 per Blackburn J. In *Bewdley Case* (1869) 1 O'M & H 16 at 17, the same judge allowed a leading question to be put to a witness by the party calling him, observing that the rule was that a previous statement by a witness differing from what he stated on oath in court might be proved to shake his evidence, but could not be used as evidence in chief; in that case the previous statement by the witness had been taken down in writing, and he stated in court that he did not remember the substance of it. As to whether the hostility which occasions the leave must be shown on the trial itself, or may be deduced from inconsistency with a previous statement by means of the consideration by the court of such previous statement see *Bradford Case* (1869) 1 O'M & H 30 at 31, where Martin B disallowed a question as to the making of such previous statement, put by a party to his own witness, with a view to supplying evidence on which the court might consider the witness to be hostile, and the judge ruled that when he saw that the witness was hostile he would deal with him accordingly but, meanwhile, he saw nothing adverse in him. As to the examination of witnesses see generally EVIDENCE vol 17(1) (Reissue) para 1017 et seq.

As to the practice followed by election committees see *Nottingham Case (No 2)* (1843) Bar & Arn 192 at 196–197, where, on a witness failing to give the evidence expected by the party calling him, that party was allowed to ask him if he had been intimidated. In *Leicester Borough Case* (1853) Report of Select Committee, Minutes of Evidence 52, the petitioner's counsel, on objection having been taken to his calling evidence contradicting that of one of his own witnesses, asked the chairman if the committee had ruled that petitioners might not call a witness to contradict another whom they had called to prove their case. The chairman intimated to him that in the peculiar circumstances of that particular case he could not see how the inquiry could proceed without an opportunity being given of testing the character of the witnesses who had been called; accordingly he was allowed to call such evidence. See, however, *Cockermouth Case* (1853) Report of Select Committee, Minutes of Evidence 100, where it was resolved that evidence which the petitioners sought to obtain from one of their witnesses of an admission by a previous witness called by them that he had been bribed was not admissible; but where the evidence which a party sought to call in contradiction of one of his own witnesses was on a point in itself material and he sought to call such evidence in order to establish that point, the evidence was admitted (*Bury Case* (1859) Wolf & B 40 at 41; *Kingston-upon-Hull Case* (1859) Wolf & B 84 at 85).

827. Witness evidence and secrecy of vote. A witness at an election court[1] may not be required to disclose for whom he has voted[2], and it is only in those cases where he has publicly held himself out as belonging to some political party that he may be asked to which party he belongs[3].

The court may not discover how a person has voted until it has been proved that he voted and his vote has been declared to be void[4].

1 As to the attendance of witnesses at an election court see para 821 ante.

2 No person who has voted may, in any legal proceeding to question an election, be required to state for whom he has voted: see para 390 ante.

3 *North Durham County Case* (1874) 3 O'M & H 1 per Grove J; followed in *Harwich Borough Case* (1880) 3 O'M & H 61 at 63–64.

4 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 36. Where, however, on a scrutiny, the vote of a certain person had been declared bad, but, two ballot papers being found to have the same number, it was impossible to say which was the one that had been marked by that person, it was decided that both might be shown to him so that he might say which was his: *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 176.

828. Duty to answer questions. A person who is called as a witness respecting an election or referendum before any election court[1] is not excused from answering any

question relating to any offence at, or connected with, the election on the ground that the answer may incriminate, or may tend to incriminate, that person or that person's spouse or civil partner[2]. Furthermore, he may not refuse to answer any such question on the ground of privilege[3]. Whether a witness may be asked or will be bound to answer questions seeking to show that he has been guilty of an offence at a previous election or referendum seems never to have been directly decided[4].

An answer by a person to a question put by or before an election court is not, except in any criminal proceedings for perjury in respect of the evidence, admissible in evidence against that person or that person's spouse or civil partner in any civil or criminal proceedings[5].

1 As to the attendance of witnesses at an election court see para 821 ante. As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. In the case of a Welsh Assembly election petition, the reference in the text to an election includes a return under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see para 222 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 96(1). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and para 222 ante.

2 Representation of the People Act 1983 s 141(1)(a) (s 141(1), (2) amended by the Civil Partnership Act 2004 s 261(1), Sch 27 para 84); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 96(1)(a) (art 96(1), (2) amended by SI 2005/2114); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 98(1)(a) (reg 98(1), (2) amended by SI 2005/2114); and see note 1 supra.

3 Representation of the People Act 1983 s 141(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 96(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 98(1)(b); and see note 1 supra.

4 Authority seems to be against the admission of evidence of corrupt practices at previous elections (*Windsor Case, Richardson-Gardner v Eykyn* (1869) 19 LT 613 at 615 per Willes J; *Taunton Borough Case* (1874) 2 O'M & H 66 at 70–71 per Grove J), unless such practices are connected with the election actually in question (*Galway Borough Case* (1869) 22 LT 75 at 76, 1 O'M & H 303 at 304; *Windsor Case, Herbert v Gardiner* (1874) 31 LT 133 at 135–136, 2 O'M & H 88 at 90–91; *Poole Case* (1874) 2 O'M & H 123 at 124–125). See also the Corrupt and Illegal Practices Prevention Act 1883 s 49 (repealed) which provided that questions about elections before 1883 were forbidden; and see the Election Commissioners Act 1949 s 4(2) (repealed).

5 Representation of the People Act 1983 s 141(2) (as amended: see note 2 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 96(2) (as amended: see note 2 supra); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 98(2) (as amended: see note 2 supra); and see note 1 supra.

E. EVIDENCE

829. Proof of corrupt practices before agency proved. On the trial of an election petition[1], unless the election court otherwise directs, any charge of a corrupt practice[2] (and, in the case of a petition questioning an election under the Local Government Act 1972, any charge of an illegal practice[3]) may be gone into, and evidence in relation to it may be received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt or illegal practice[4]. A candidate is liable, to the extent of his election being avoided, for the corrupt acts of his agent, even though he may have expressly forbidden such acts[5]. It follows accordingly that, in order to give in evidence the commission of such acts by an agent, it is not necessary to prove that they were authorised or sanctioned; it is merely necessary to prove at some stage of the

trial that the person committing them was an agent[6]. The court has a discretion to admit evidence of a corrupt practice before proof of agency has been given or to insist on agency first being proved. If a case of agency has been opened by the party seeking so to give such evidence, the court will generally admit evidence of a corrupt practice before proof of agency[7], but the evidence should not be given unless the party calling it has a reasonable expectation of being able to prove agency[8].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; and as to Welsh Assembly election petitions see para 762 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.

2 As to corrupt practices see generally para 707 et seq ante.

3 As to illegal practices see generally para 674 et seq ante.

4 Representation of the People Act 1983 s 139(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(4). The court will need to ascertain whether illegal practices have extensively prevailed for the purposes of its report: see para 857 post.

5 See para 251 ante.

6 *Norwich Case, Tillett v Stracey* (1869) 1 O'M & H 8 at 10 per Martin B; *Westbury Case, Laverton v Phipps, Harrop's Case* (1869) 1 O'M & H 47 at 52 per Willes J; *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom, Gilbert's Case* (1869) 1 O'M & H 66 at 68 per Blackburn J; *Tamworth Case, Hill and Walton v Peel and Bulwer* (1869) 1 O'M & H 75 at 81 per Willes J; *Taunton Case, Williams and Mellor v Cox* (1869) 1 O'M & H 181 at 182 per Blackburn J; *Taunton Borough Case* (1874) 2 O'M & H 66 at 73–74 per Grove J.

7 *Guildford Case* (1869) 1 O'M & H 13 at 14 per Willes J.

8 *Bristol Case, Brett v Robinson* (1870) 2 O'M & H 27 at 29 per Bramwell B.

830. Proof of agency. What constitutes agency on the trial of a petition[1] is a question to be decided on the circumstances of each case[2]. Statements, as distinguished from acts, by an agent are not prima facie evidence on the hearing of an election petition against a party for whom he had acted as agent at the election in question[3]. It may, however, be proved that a person is such an agent as to make his statements evidence against the party for whom he has acted[4], and directions given by an agent may be evidence[5].

Evidence should be confined to the charges alleged in the petition[6].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to evidence of agency see para 252 et seq ante.

3 *King's Lynn Case, Armes and Holditch v Bourke* (1869) 1 O'M & H 206 at 207–208 per Martin B; *Dover Case* (1869) 1 O'M & H 210 at 211.

4 *Dover Case* (1869) 1 O'M & H 210.

5 *Dudley Case* (1874) 2 O'M & H 115 at 119 per Grove J; *Greenock Case* (1869) 1 O'M & H 247 at 248. A petitioner, however, has been allowed to go into a ground of objection stated in the particulars but not specifically raised in the petition: *Londonderry City Case* (1886) 4 O'M & H 96. As to the amendment of a parliamentary or Welsh Assembly election petition see para 784 ante; and as to the amendment of a petition questioning a local authority referendum or an election under the Local Government Act 1972 see para 792 ante.

831. Statements by parties. Statements and admissions by parties to the petition[1] are admissible in evidence against them, and the admissions of an original respondent may be given in evidence by the petitioner where the petition is being proceeded with against a substituted respondent[2].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 *Tipperary County Case* (1875) 3 O'M & H 19 at 34. It was there argued for the respondent that the admission by the deceased respondent as to his nationality was not admissible, on the ground that the authority of the cases decided before the election committees was against the reception of such evidence, and that questions of evidence arising in election petitions should be decided according to such authority and not according to the ordinary law of evidence, and Keogh J decided the point in favour of the petitioner entirely on the authority of the cases decided before the election committees. As to the court's duty to observe the rules on which the committees of the House of Commons used to act see para 815 ante.

832. Statements by voters. Statements by voters to third parties may be given in evidence before an election court for the purpose of invalidating their votes in the event of a scrutiny; but, unless agency is proved or admitted[1], they do not constitute evidence against the opposite party[2]. Where the question of personation is raised[3], declarations and admissions of the person who voted that he is not the person on the register[4], or of the person on the register that he is not the person who voted, are admissible[5].

1 As to proof of agency see para 830 ante.

2 *Windsor Case, Richardson-Gardner v Eykyn* (1869) 1 O'M & H 1 at 5–6 per Willes J; *King's Lynn Case, Armes and Holditch v Bourke* (1869) 1 O'M & H 206 at 208 per Martin B, where he laid down, with regard to statements to third parties by a voter as to his having been bribed, that in order to affect the respondent's seat it would be necessary to show that the voter had actually been bribed, not merely that he had said so; *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212. The balance of authority under the decisions of the old election committees is in favour of the admissibility in evidence of such statements by voters: see *Ipswich Case* (1835) Kn & Omb 332 at 387; *Leominster Case, Weaver's Case* (1796) 2 Peck 391 at 395; *Sudbury Case, Black Boy Case* (1842) Bar & Aust 237 at 245. See also *Bridgewater Case* (1869) 1 O'M & H 112 (admissibility of statements to and by the landlady of a public house for proving treating, and of conversations after the poll); *Londonderry Borough Case* (1869) 1 O'M & H 274 at 276–277 per O'Brien J (admissibility of statements of deceased person for establishing agency); *Stroud Case, Baynes v Stanton and Dickinson* (1874) 2 O'M & H 107 at 108 (admissibility of statement by a person, who had since disappeared, of the commission of bribery); *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152 at 153 (admissibility of statements made to canvasser). A book embodying the reports of the regular canvassers kept by the witness to whom the reports have been made is not strictly admissible; the canvassers should first be called to prove their returns: *King's Lynn Case, Armes and Holditch v Bourke* supra. See also *Westminster Borough Case* (1869) 1 O'M & H 89 at 94, where a question to a witness called on behalf of the respondent, who had been employed by a canvassing association, as to the total number of promises received, which was asked with the object of showing that it was such that he, acting as respondent's agent, would have been less likely to resort to bribery, was allowed. Where, on behalf of a petitioner, evidence was tendered of a conversation between a witness and certain voters with regard to their votes, on the petitioner's counsel stating that he was prepared to prove a criminal transaction between the respondent's agents and certain parties whom he had named in his opening as having been bribed, and that this evidence was tendered for the purpose of establishing such allegation, the evidence was admitted: *Nottingham Town Case, Hutchinson's Case* (1843) Bar & Arn 192 at 195–196.

3 As to personation see para 733 ante.

4 *Westbury Case* (1869) 1 O'M & H 47 at 49 per Willes J. See also *Tipperary County Case* (1875) 3 O'M & H 19 at 34 per Keogh J.

5 *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 173, 175.

833. Contradiction by witness. The election court will not necessarily discard the evidence of a witness who has signed a statement to the opposite side contrary to what he had originally said, as his evidence may be corroborated by circumstances so as to lead the court to believe it, or his demeanour may give credibility to his evidence[1].

1 *Wigan Case, Spencer and Prestt v Powell* (1881) 4 O'M & H 1 at 5 per Grove J. That persons who have been, or are likely to be, subpœnaed by one side should be persuaded by the other side to make

statements, or to sign already prepared statements, is most reprehensible: *Wigan Case* supra; *Montgomery Boroughs Case* (1892) Day 148 at 150; *Maidstone Borough Case, Evans v Viscount Castlereagh* (1906) 5 O'M & H 200 at 201–202; *Worcester Borough Case, Harben and Cadbury v Williamson, Olds' Case* (1906) 5 O'M & H 212 at 214.

834. Election documents produced following an order. Where an order is made[1] for the production by the relevant officer[2] (or by the National Assembly for Wales in the case of a Welsh Assembly election[3]) of any document in his (or its) possession (or, in the case of the Greater London returning officer, under his control) relating to any specified election, referendum or poll, the production by him or by his agent (or by the Assembly, as the case may be) of the document ordered, in such manner as may be directed by the order, is conclusive evidence that the document relates to the specified election, referendum or poll; and any endorsement on any packet of ballot papers so produced is prima facie evidence that the ballot papers are what they are stated to be by the endorsement[4].

1 As to the making of such an order see para 849 post.

2 Ie by the relevant registration officer at a parliamentary election or local government election for a principal area, parish or community council, by the proper officer of the appropriate local authority at a local authority mayoral election and a local authority referendum, by the Greater London returning officer at a London Authority election, or by the local returning officer at a European parliamentary election. As to the retention of parliamentary election documents by the relevant registration officer see para 503 ante; as to the retention of local government and local authority mayoral election documents by the proper officer of the appropriate local authority see para 504 ante; as to the retention of documents relating to London Authority elections by the Greater London returning officer see para 505 ante; and as to the retention of European parliamentary election documents by the local returning officer see para 507 ante. As to the retention of documents relating to a local authority referendum or poll consequent on a parish or community meeting by the proper officer of the council see para 665 ante. For the meaning of 'Greater London returning officer' see para 218 note 7 ante; for the meaning of 'relevant registration officer' for these purposes see para 494 note 3 ante; and for the meaning of 'proper officer' for these purposes see para 849 note 2 post. As to local returning officers appointed for the purposes of European parliamentary elections see para 365 et seq ante.

3 As to the retention of documents relating to elections to the National Assembly for Wales by the Assembly see para 506 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

4 Representation of the People Act 1983 s 23(1), Sch 1 r 56(6) (amended by the Electoral Administration Act 2006 s 41(1), (4)(a)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 35(6); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 49(6), Sch 2 r 52(6), Sch 3 r 54(6) (Sch 1 r 49(6), Sch 2 r 52(6), Sch 3 r 54(6) all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 52(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 63(6); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 60(6); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 53(6); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 53(6). At the date at which this volume states the law, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47(6) is applied and modified for the purposes set out in the text in the context of a local authority referendum (see para 557 ante), in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47(6) (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. As to the inspection of returns and declarations as to election expenses see para 289 ante. As to the inspection of ballot papers see para 849 post.

The amendment effected by the Electoral Administration Act 2006 s 41(4) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with either the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see para 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341,

reg 91 (as amended) (see para 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.

F. RECRIMINATORY CASES

835. When recriminatory evidence may be offered. On the trial of a petition[1] complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person[2]. Such a case is called a 'recriminatory case' and the evidence given by the respondent is called 'recriminatory evidence'. If the respondent intends to give recriminatory evidence, not less than seven days[3] before the day fixed for the trial of the petition he must file[4] a list of the objections to the election of that person on which he intends to rely, and serve a copy of the list on the petitioner and the Director of Public Prosecutions[5]. Any party to the petition may inspect and obtain an office copy of any list so filed[6]. Except by the election court's leave, no evidence may be given by a respondent of any objection to a person's election which is not specified in such a list[7].

If the seat at an election is not claimed, the respondent may not call recriminatory evidence[8]. In such cases, the respondent may not give evidence as to the election expenses of an unsuccessful candidate, and may not set up such evidence by cross-examination[9]. It seems that where the petition claims the seat, recriminatory evidence may be offered notwithstanding that the prayer for the seat is abandoned at the trial[10].

On the trial of a referendum petition[11], the respondent may give evidence in the same manner as if he had presented a petition against the referendum[12].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Representation of the People Act 1983 s 139(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(4). In the case of a Welsh Assembly election, the reference to an election includes a return under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see para 222 ante): see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(5). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and para 222 ante.

3 As to the calculation of time limits for these purposes see paras 765–766 ante.

4 Any document required to be filed in proceedings under the Election Petition Rules 1960, SI 1960/543 (as amended) or, in relation to a European parliamentary election petition, under the European Parliamentary Election Petition Rules 1979, SI 1979/521 (as amended) must be filed in the election petitions office: Election Petition Rules 1960, SI 1960/543, r 2(5); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 2(4) (substituted by SI 2004/1415). For the meaning of 'election petitions office' see para 766 note 12 ante. As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions see para 765 note 3 ante.

5 Election Petition Rules 1960, SI 1960/543, r 10(2) (amended by SI 1985/1278); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(2) (amended by SI 2004/1415); and see note 4 supra.

6 Election Petition Rules 1960, SI 1960/543, r 10(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(3); and see note 4 supra.

7 Election Petition Rules 1960, SI 1960/543, r 10(4)(b); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(4)(b); and see note 4 supra.

8 *Blackburn Case* (1869) 1 O'M & H 198 at 199; *Gravesend Case* (1880) 3 O'M & H 81 at 82–83 per Denman J and Lopes J.

9 *Durham County, Northern Division Case (No 2)* (1874) 2 O'M & H 152 at 154 per Bramwell B; *Thirsk Borough Case* (1880) 3 O'M & H 113 per Denman J.

10 The authority of the cases before the election committees supports this view: *Coventry Case* (1803) 1 Peck 93 at 99; *New Windsor Case* (1804) 2 Peck 187 (where the point was argued at considerable length on either side); *Clare County Case* (1860) Wolf & B 138 at 143; and see also *Aldridge v Hurst* (1876) 1 CPD 410 at 416 (where these cases were reviewed by the Court of Common Pleas in its judgment, given by Grove J). In the last-named case the court refused to allow a petitioner to amend his petition by striking out the prayer for the seat, one of the reasons for so refusing being that, otherwise, the right of giving recriminatory evidence would be lost to the respondent. The court pointed out that the petitioner might give notice to the respondent of his intention not to claim the seat, so as to enable the respondent to avoid the costs of meeting such a claim without, on the other hand, preventing the possibility of recriminatory evidence being given. Thus it would appear that in the court's opinion the abandonment of the claim at the trial would not preclude the offering of such evidence; but see *Gravesend Case* (1880) 44 LT 64, 3 O'M & H 81, where a grave doubt was expressed by Denman J and Lopes J as to whether, when the claim for the seat had been abandoned, with the consent of the respondent and of the court, the respondent might proceed with the recriminatory case.

11 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.

12 Representation of the People Act 1983 s 139(5) (substituted, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5). As to the application and modification of the provision made for questioning an election for the purposes of a local authority referendum petition see note 11 supra.

836. Allegation of charges against subsequent election. If a recriminatory case[1] is abandoned owing to the petitioner abandoning his claim to the seat, and if the matters alleged in the recriminatory case are such as would disqualify the petitioner on a subsequent election, but, owing to the abandonment of the claim for the seat, they are not tried and there is no adjudication on them by the election court, these matters may be alleged in a petition against such subsequent election[2].

1 For the meaning of 'recriminatory case' see para 835 ante.

2 *Stevens v Tillett* (1870) LR 6 CP 147; *Gravesend Case* (1880) 44 LT 64 at 65, 3 O'M & H 81 at 82–83 per Lopes J and Denman J. See, however, the doubt expressed in *Stevens v Tillett* supra at 171 per Willes J as to whether, if such matters were known to the respondent in the former petition, so as to have been capable of being offered in evidence on the recriminatory case, and were not so offered, they might be alleged in the petition against the subsequent election. In that case, however, the recriminatory case had been opened and, three of the charges made in it having failed, it was abandoned before the claim to the seat was abandoned.

G. SCRUTINY

837. Object of and provisions as to scrutiny generally. On a petition complaining of an undue election, the petitioner may claim that the successful candidate was not elected by a majority of lawful votes and demand a scrutiny[1]. The object of a scrutiny is to ascertain by striking off votes or adding votes which candidate had the majority of lawful votes[2].

The statutory provisions which govern the conduct of elections do not expressly state that a scrutiny may be demanded nor, if it can be demanded, the grounds on which votes allowed or disallowed at an election may be disallowed or allowed at the scrutiny. Those provisions do, however, provide for certain votes being struck off on a scrutiny for bribery, treating or undue influence[3], and they contain a provision which contemplates, although it does not expressly authorise, the rejection of votes on a scrutiny on the ground of the voters being disqualified from voting[4]. There is also statutory authority for the inspection of ballot papers for the purposes of an election petition[5]. It is also provided that, subject to the statutory provisions and the rules made thereunder, the principles and rules on which committees of the House of Commons

used to act with regard to a scrutiny must be observed, so far as may be, by the High Court and election court, and that such principles and rules apply equally to all petitions[6].

1 *Taunton Case, Williams and Mellor v Cox* (1869) 21 LT 169 at 173, 1 O'M & H 181 at 186; *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 215.

2 As to the striking off of votes see para 839 et seq post. At a local election in 1974 a scrutiny was held so as to enable votes which had been lawfully cast, but overlooked at the count, to be counted: see the Times (2 July 1974), concerning the local election at Barnet.

3 See para 840 post.

4 See para 162 ante.

5 As to the inspection of ballot papers see para 849 post.

6 See para 815 ante.

838. History of scrutiny. To understand the scope of scrutinies it is necessary briefly to relate the previous law on this subject. Before the Reform Act of 1832[1] there was no system of registration for voters and the returning officer from the very necessity of the case was obliged to hold a scrutiny of the voters at the time of the poll[2], but committees of the House of Commons subsequently considered the validity of votes given at the election[3]. That Act established a register of voters[4] and restricted the inquiry at the time of polling to the right of any person to vote to the asking of three questions relating to the identifying of the voter with the person named in the register, to whether that person had already voted and to whether he still possessed the same qualification which had entitled him to be registered[5]. The correctness of the register could be questioned after the election on an election petition[6]. By the Parliamentary Voters' Registration Act 1843 the register of voters was made conclusive evidence, for the purpose of inquiry at the time of polling, of the voter's retaining the same qualification as that with which he was registered, and the inquiry was restricted to the remaining two questions[7]. Owing to doubts as to how far the qualifications of voters could be inquired into by a committee of the House of Commons appointed to hear an election petition, the register of voters was declared to be conclusive evidence of the right to vote except when an objection had been raised before the revising barrister appointed to revise the register and he had given an express decision, and except where there was at the time of voting either a legal incapacity which arose subsequent to registration or a legal incapacity under an Act of Parliament[8].

The provision declaring the powers of inquiry on the hearing of an election petition was repealed by the Ballot Act 1872[9], which in turn provided that every person whose name was on the register was entitled to be given a ballot paper, although this did not entitle any person to vote who was prohibited from voting by any statute or by the common law of Parliament[10]. The effect of this provision of the Ballot Act 1872[11], and the unrepealed provision of the Parliamentary Voters' Registration Act 1843[12] as to the inquiry at the time of polling, was held to make the register conclusive as regards the returning officer and the election court except in the case of persons who were prohibited from voting[13]. This did not mean persons who from failure in the incidents or elements of the franchise could be successfully objected to on the revision of the register, but persons who from some inherent or for the time being irremovable quality in themselves had not the status of parliamentary electors either by prohibition of statutes or at common law[14]. Examples of such persons were peers, aliens, minors and persons holding certain offices[15]. These provisions of the Parliamentary Voters' Registration Act 1843[16] and the Ballot Act 1872[17] have been repealed and are now replaced by similar provisions[18]. Although there is no longer any direct mention of the grounds on which a vote may be struck off on a scrutiny, it is assumed that an election court would follow the principles previously established except in so far as the present

statutory provisions as to persons entitled to vote or disqualified from voting differ from the previous provisions[19]. Accordingly it would appear that the votes of persons who were not entitled to be registered because they did not have a residence, service or other[20] qualification would not be questioned on a scrutiny[21].

1 Ie the Representation of the People Act 1832.
2 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734.
3 Erskine May's Parliamentary Practice (21st Edn) 36.
4 Representation of the People Act 1832 ss 37–57 (repealed).
5 Ibid s 58 (repealed).
6 Ibid s 60 (repealed).
7 Parliamentary Voters' Registration Act 1843 ss 79–82 (repealed).
8 Ibid s 98 (repealed). As to these grounds see *New Sarum Case, Ryder v Hamilton* (1869) LR 4 CP 559. Where a minor was placed on the register but was of full age at the date of the poll, it was held that the committee of the House of Commons had no right to question the vote as no objection had been taken before the revising barrister: see *Aylesbury Case* (1848) 1 Pow R & D 82.
9 In 1868 the procedure for trying election petitions by election courts instead of by committees of the House of Commons had been established by the Parliamentary Elections Act 1868, and subject to rules of court under that Act the court was required to observe the principles, practice and rules on which those committees used to act in dealing with election petitions (see s 26 (repealed)).
10 Ballot Act 1872 s 7 (repealed).
11 Ie ibid s 7 (repealed).
12 Ie the Parliamentary Voters' Registration Act 1843 s 79 (repealed).
13 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734; *Pembroke Boroughs Case* (1901) 5 O'M & H 135.
14 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734. The requirement of being a British citizen in order to be registered as an overseas elector (see para 111 ante) is presumably also a fundamental requirement because, whilst a person who is registered as an overseas elector but is not such a citizen is entitled to vote, this does not prevent the rejection of his vote on a scrutiny: see para 162 ante.
15 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734; *Londonderry City Case* (1886) 4 O'M & H 96 at 101; *Oldham Case* (1869) 1 O'M & H 151 at 159.
16 See note 12 supra.
17 See note 11 supra.
18 As to the saving made in the statutory provisions for rejections on scrutiny see the Representation of the People Act 1983 s 49(5) (as substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(2); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2); and para 162 ante.
19 As to the obligation of election courts to follow the principles and rules on which committees of the House of Commons used to act with regard to a scrutiny see para 815 ante.
20 Ie if registered in pursuance of a voter's declaration: see para 140 et seq ante.
21 *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734; *New Sarum Case, Ryder v Hamilton* (1869) LR 4 CP 559; *Pembroke Boroughs Case* (1901) 5 O'M & H 135.

839. Votes by persons under legal incapacity to vote. It would appear that any person who, being subject to a legal incapacity[1] to vote, votes at an election will have his vote struck off on a scrutiny[2].

A vote given by an alien may be struck off on a scrutiny[3]. In order to prove the validity of a vote given by a person who states that he has now ceased to be an alien by having been naturalised, the certificate of his naturalisation or a certified copy of it must be produced, and his own mere statement in evidence that he has been naturalised is insufficient[4].

A person not of voting age[5] on the date of the poll is not entitled to vote[6]. It would appear that, if such a person votes, his vote may be struck off on a scrutiny[7].

1 For the meaning of 'legal incapacity' see para 110 note 8 ante.
2 As to the saving made in the statutory provisions for rejections on scrutiny see the Representation of the People Act 1983 s 49(5) (as substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 24(2); the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 17(2); and para 162 ante.

3 *Stepney Division, Tower Hamlets Case* (1886) 54 LT 684. This case appears to overrule the doubts expressed in *Berwick Case* (1880) 44 LT 289 at 290, in view of *Oldham Case* (1869) 1 O'M & H 151 at 159, although the latter case was decided on different wording.

4 *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 172. Presumably the same principle would apply to a person who claimed to be a Commonwealth citizen by virtue of his registration as such.

5 Ie 18 years or over: see paras 110 note 2, 112 note 14, 117 note 9 ante.

6 See para 110 et seq ante.

7 See the savings for rejection on scrutiny mentioned in note 2 supra. It is submitted that *Oldham Case* (1869) 1 O'M & H 151 at 159, which decided that a minor who voted could not have his vote questioned on a petition because no objection had been taken before the revising barrister, would not be followed in view of the implication in the Representation of the People Act 1983 s 49(5), that such a vote could be struck off on a scrutiny: cf *Petersfield Case, Stowe v Jolliffe* (1874) LR 9 CP 734; and see para 838 ante.

840. Votes struck off for bribery, treating and undue influence. Where, on a parliamentary[1] or Welsh Assembly election petition[2] claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election, one vote for every person who voted at the election and is proved to have been so bribed[3], treated or unduly influenced must, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate[4]. It is not necessary for this purpose to go into the question of how the person bribed had actually voted[5]. If, however, on a scrutiny, it is proved that, although the voter entered the polling station and received a ballot paper, he did not vote but deliberately spoilt his ballot paper, the election court may order the ballot paper to be produced and examine it and, if it appears that no vote was in fact given, may refuse to strike off a vote on a scrutiny[6]. In a case of bribery it appears necessary to prove not only the giving of the bribe with a corrupt motive, but also that the person receiving the bribe acted corruptly[7].

1 As to parliamentary election petitions see para 759 ante. The wording of the provision impliedly excludes petitions questioning an election under the Local Government Act 1972. As to the questioning of an election under the Local Government Act 1972 see para 760 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to Welsh Assembly election petitions see para 762 ante.

3 'So bribed' means bribed by the candidate or any person on his behalf: *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610.

4 Representation of the People Act 1983 s 166(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 117(1). On the trial of a Welsh Assembly election petition, the reference is to votes given to the candidate, where he is an individual candidate, or to the registered political party for which he is such a candidate, where he is a party list candidate: see art 117(1). For the meanings of 'individual candidate' and 'party list candidate' in relation to a Welsh Assembly regional election see para 237 note 23 ante. For the meaning of 'registered political party' for these purposes see para 263 ante. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.

There is no power to add a vote for the candidate for whom the voter would have voted but for intimidation: *Oldham Case* (1869) 1 O'M & H 151 at 161.

5 *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610; *Down County Case* (1880) 3 O'M & H 115; *West Bromwich Case* (1911) 6 O'M & H 256 at 266. See also para 841 note 6 post.

6 *West Bromwich Case* (1911) 6 O'M & H 256 at 266.

7 *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610 (Grove J doubting); *Down County Case* (1880) 3 O'M & H 115. As to what constitutes bribery see para 712 et seq ante.

841. Votes struck off for corrupt and illegal practices. If any person who is guilty of a corrupt[1] or illegal practice[2] (or of illegal payment, employment or hiring at an election[3]) votes at a parliamentary[4] or Welsh Assembly election[5], his vote[6] is void[7], and accordingly may be struck off on a scrutiny[8]. If any person who is subject, under any enactment relating to corrupt or illegal practices, to an incapacity to vote at a

parliamentary or Welsh Assembly election or an election to any public office votes at that election, his vote is void[9], and accordingly may be struck off on a scrutiny[10].

1 As to corrupt practices see generally para 707 et seq ante.
2 As to illegal practices see generally para 674 et seq ante.
3 As to illegal payment, employment and hiring at an election see para 685 et seq ante.
4 For the meaning of 'parliamentary election' see para 9 ante.
5 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante.
6 The vote struck off is that of the particular person who is guilty and for this purpose there must be inspection of the ballot papers: *West Bromwich Case* (1911) 6 O'M & H 256 at 267; and see also para 840 ante. Before the Ballot Act 1872 s 25 (repealed) and the Corrupt and Illegal Practices Prevention Act 1883 s 36 (repealed), which were the predecessors of the Representation of the People Act 1983 s 166(1), (2), the vote of the person bribed and that of the person bribing were both struck off: see *Southampton Case* (1869) 1 O'M & H 222 at 224; and see also the notes to *St Ives Case* (1775) 2 Doug El Cas 391 at 416.
7 Representation of the People Act 1983 s 166(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 117(2). There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.
8 As to scrutiny see para 837 et seq ante.
9 Representation of the People Act 1983 s 166(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 117(3); and see note 7 supra. As to incapacities for voting see para 904 post.
10 It is doubtful if counsel may be heard on behalf of voters whose votes are struck off: *Boston Borough Case, Malcolm v Parry* (1874) LR 9 CP 610 at 614.

842. Votes of persons guilty of personation and of persons impersonated. If a person whose name appears on the register proves that he has not voted at an election but a vote has been given in his name, the vote so given must be disallowed[1]. If, however, the person impersonated has voted on a tendered ballot paper[2], then on a scrutiny[3] the tendered ballot paper is substituted for the ballot paper originally issued[4]. The tendered ballot paper will be counted even if the presiding officer does not comply with all the statutory provisions regarding tendered ballot papers[5]; but, if the voter commits a breach of the statutory provisions by putting the tendered ballot paper into the ballot box instead of handing it to the presiding officer, the vote will not be counted[6]. A vote recorded by one person in the name of another who is on the register will be struck off whether the actual offence of personation is committed or not[7]. If, however, a voter was entered on the register under a wrong name and he, having a right to vote, voted in the wrong name, the vote is good[8].

In order for a vote to be avoided for personation, it has to be proved beyond a reasonable doubt that an offence of personation had taken place because, although the proceedings under a election petition are civil proceedings, the standard of proof that an election offence has been committed is set to the criminal standard[9].

1 *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 175; and see *Gloucester Borough Case, Guise v Wait* (1873) 2 O'M & H 59 at 64.
2 As to tendered ballot papers see para 408 ante.
3 As to scrutiny see para 837 et seq ante.
4 See *Cirencester Case* (1893) (cited in Day 48), where the first voter had used the ballot paper of the second through an error of the polling clerk. Both votes were allowed, however, the court saying that if the respondent wished to strike off the first vote it should have been included in the particulars of votes objected to. If the presiding officer had erroneously marked the register thinking that the voter had previously voted, but at the scrutiny it is proved that in fact nobody had voted in the name of the person who voted on the tendered ballot paper, the tendered ballot paper will be allowed without a vote being struck off: *Berwick Case, McLaren v Home* (1880) 44 LT 289 at 290.
4 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 43.
6 *York County, East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 115.
7 *Berwick Case, McLaren v Home* (1880) 44 LT 289 at 290; *Oldham Case* (1869) 1 O'M & H 151 at 152.

8 *Oldham Case* (1869) 1 O'M & H 151 at 152; *Exeter Case* (1911) 6 O'M & H 228 at 233; *Athlone Borough Case* (1880) 3 O'M & H 57 at 59.

9 *Re Local Government Election for Eel Brook Electoral Division Hammersmith and Fulham Council*, sub nom *Thompson v Dann* (1994) 138 SJ LB 221 (it was not possible to infer that personation must have taken place merely from a presumption of regularity and from the fact that the register had been marked against an elector's name before that elector's proxy had attended to vote; it was probable in this case that a mistake had been made in the marking of the register and the vote should have been counted). A criminal standard of proof has been applied also to find a person guilty of undue influence (which is a corrupt practice): see para 726 ante.

843. Votes given to a disqualified candidate at an election. Votes given for a candidate who is disqualified[1] may in certain circumstances be regarded as not given at all or thrown away, and to decide this a scrutiny is not necessary[2]. The disqualification must be founded on some positive and definite fact existing and established at the time of the poll so as to lead to the fair inference of wilful perverseness on the part of the electors voting for the disqualified person[3]. Examples of the sort of disqualification that will cause votes to be thrown away are being a peer, an alien or a minor[4]. For the votes given for a candidate to be thrown away, the voters must, before voting, either have had or be deemed to have had notice of the facts creating the candidate's disqualification[5], and it is not necessary to show that the elector was aware of the legal result that such a fact entailed disqualification[6].

1 As to disqualifications for being a candidate see para 231 et seq ante.

2 *Fermanagh and South Tyrone Division Case* (1955) (cited in 105 L Jo 594). As to scrutiny see para 837 et seq ante.

3 *Clitheroe Borough (No 2) Case* (1853) 2 Pow R & D 276; *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626; *Gosling v Veley* (1847) 7 QB 406 (revsd on another point (1853) 4 HL Cas 679); *Claridge v Evelyn* (1821) 5 B & Ald 81.

4 *Re Bristol South East, Parliamentary Election* [1964] 2 QB 257, [1961] 3 All ER 354, DC; *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626; *Tipperary County Case* (1875) 3 O'M & H 19 at 42–49; *Trench v Nolan* (1872) IR 6 CL 464.

5 *Re Bristol South East, Parliamentary Election* [1964] 2 QB 257, [1961] 3 All ER 354, DC; *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626; *Beresford-Hope v Lady Sandhurst* (1889) 23 QBD 79, CA; *R v Bester* (1861) 3 LT 667; *Cork, Eastern Division Case* (1911) 6 O'M & H 318; *Mid-Ulster Division Case* (1955) Times, 8 October; *Fermanagh and South Tyrone Division Case* (1955) (cited in 105 L Jo 594). In *Re Bristol South East, Parliamentary Election* supra, it was held, inter alia, that where the facts which give rise to the incapacity or disqualification by status of a candidate exist and are made known to the electorate before their votes are cast, and the voters are also made aware that the legal consequence of those facts might be disqualification, votes given to such a candidate are given at the electors' peril, and, where disqualification in law is established, such votes are thrown away and are null and void, the court being bound to declare that the candidate for whom the next highest number of votes was cast has been duly elected. See also *Cox v Ambrose* (1890) 7 TLR 59 at 60, DC; *Etherington v Wilson* (1875) LR 20 Eq 606 at 618, cited with approval in *Re Bristol South East, Parliamentary Election* supra at 295 and 376. Earlier cases appear to indicate that, where the disqualification is not notorious and depends on legal argument or on complicated facts, votes given for a candidate (even though he might be unseated by reason of his disqualification) would not be thrown away so as to give the seat to the candidate with the next highest number of votes: see *Abingdon Case* (1775) 1 Doug El Cas 419; *Penryn Case* (1819) Corb & D 55; *Cheltenham (No 2) Case* (1848) 1 Pow R & D 224; *Clitheroe Borough (No 2) Case* (1853) 2 Pow R & D 276; notes to *St Ives Case* (1775) 2 Doug El Cas 391 at 415; and the note to *Radnor Case* (1803) 1 Peck 496; but cf *Wakefield Case, Blakeley's Case* (1842) Bar & Aust 270 at 317; *Belfast Case* (1838) Falc & Fitz 595; *Cork Case* (1835) Kn & Omb 274; *Tavistock Borough Case* (1853) 2 Pow R & D 5; *Horsham Second Case* (1848) 1 Pow R & D 240 at 258; *Leominster Case* (1819) Corb & D 1. For a discussion of early cases see the notes to *Leominster Case* supra. Express notice of disqualification is almost invariably given: see para 273 ante.

6 *Fermanagh and South Tyrone Division Case* (1955) cited in 105 L Jo 594.

844. Votes improperly recorded. A scrutiny[1] may be demanded on the ground that votes at the count have been improperly accepted or rejected[2].

1 As to scrutiny see para 837 et seq ante.

2 *Re South Newington, Kingston-upon-Hull, Municipal Election Petition, Lewis v Shepperdson* [1948] 2 All ER 503. As to the count see para 431 et seq ante. Where a cross on a ballot paper is not put firmly into the correct box, the effect on its validity is a question of fact and not a question of law; each voting paper must be looked at on its merits and it is a matter of first impression whether the vote was clearly cast for one candidate or not: *Cornwell v Marshall* (1976) 75 LGR 676, DC; *Petition of Rowe* [2001] All ER (D) 329 (Dec), DC.

845. Scrutiny and recriminatory case. Where the election petition makes charges of corrupt or illegal practices and recriminatory evidence[1] is offered, the practice is to take the recriminatory case before the scrutiny[2]. The reason is that if both the petitioner and respondent are disqualified it would be a waste of time to go into a scrutiny. Where, however, the petition only claims the seat without alleging any corrupt or illegal practices on the respondent's part, the practice has been to take the scrutiny first[3].

1 As to recriminatory evidence see para 835 ante.

2 *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 214; *Southampton Case* (1869) 1 O'M & H 222 at 225; *Northallerton Case* (1869) 1 O'M & H 167. As to scrutiny see para 837 et seq ante.

3 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34 at 35; *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110; *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 172; *Exeter Case* (1911) 6 O'M & H 228 at 229; *Petersfield Case, Stowe v Jolliffe, Aylward's Case* (1874) 2 O'M & H 94 at 95; *St George's Division, Tower Hamlets, Case* (1896) 5 O'M & H 89.

846. Who may demand a scrutiny. A respondent[1] whose election is proved to be void may still continue the scrutiny[2] with the object of showing that the person for whom the seat is claimed has not obtained a majority of lawful votes[3]. Similarly, if a petitioner is proved on the hearing of an election petition not to be qualified for election, he may still proceed with the scrutiny in order to show that the respondent had not received a majority of lawful votes and so was not duly elected[4].

1 As to respondents see paras 780, 789 ante.

2 As to scrutiny see para 837 et seq ante.

3 *Norwich Case* (1869) 19 LT 615 at 620–621 per Martin B.

4 *Southampton Case* (1869) 1 O'M & H 222 at 225–226 per Willes J; *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 215–216 per Martin B; *Taunton Case, Williams and Mellor v Cox* (1869) 1 O'M & H 181 at 186. It seems that, if a respondent fails on the principal case and succeeds on the recriminatory case (as to which see para 835 ante), he may still proceed with the scrutiny: *Southampton Case* supra at 225–226 per Willes J.

847. List of objections to votes. Where the election petition[1] claims a seat or office for an unsuccessful candidate on the ground that he had a majority of lawful votes, every party must, not less than seven days[2] before the day fixed for the trial, file[3] a list of the votes which he contends were wrongly admitted or rejected, stating in respect of each such vote the grounds for his contention, and serve a copy of the list on every other party and on the Director of Public Prosecutions[4]. Any party to the petition may inspect and obtain an office copy of any list so filed[5]. Except by leave of the election court, no evidence may be given by a party against the admission or rejection of any vote, or as to any ground of contention, which is not specified in a list filed by him[6].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to the calculation of time limits for these purposes see paras 765–766 ante.

3 As to filing for these purposes see para 835 note 4 ante.

4 Election Petition Rules 1960, SI 1960/543, r 10(1); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(1). As to the application and modification of the Election Petition Rules 1960, SI 1960/543 (as amended) for the purposes of Welsh Assembly election petitions see para 765 note 3 ante.
5 Election Petition Rules 1960, SI 1960/543, r 10(3); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(3); and see note 4 supra.
6 Election Petition Rules 1960, SI 1960/543, r 10(4)(a); European Parliamentary Election Petition Rules 1979, SI 1979/521, r 10(4)(a); and see note 4 supra.

848. Particulars on a scrutiny. Where a petitioner claims the seat for an unsuccessful candidate, alleging that he had a majority of lawful votes, the court has no jurisdiction to order any particulars except those specified[1]. Where, however, a petition contains allegations upon which it claims to have the election invalidated and goes on, further, to request a scrutiny and to claim the seat, the ordinary particulars may be ordered[2] as to the former part of the petition, while as to the latter part of it no further particulars than those contained in the list of objections to votes[3] may be ordered[4]. Similar particulars are ordered of votes which are sought to be added[5]. Where no list of the votes to which it is intended to take objection has been delivered within the time specified, the court has no power to allow evidence of the votes objected to or of the objections to them to be given at the trial[6].

A party to a scrutiny is bound by his particulars[7]. He may not attack votes set out in the other party's particulars which are not set out in his own particulars, and with the objection to which the other party does not proceed[8]. Leave to give evidence as to those votes may, however, be given by the court on good grounds being shown by affidavit, the court making such terms as it thinks right to meet such a case[9].

1 *East Manchester Case, Munro v Balfour* [1893] 1 QB 113, DC; *Furness v Beresford, York City Case* [1898] 1 QB 495, CA.
2 As to the ordering of particulars in the case of these claims see paras 806–808 ante.
3 As to the list of objections to votes see para 847 ante.
4 *East Manchester Case, Munro v Balfour* [1893] 1 QB 113, DC. See also *Elkins v Onslow* (1868) 19 LT 528.
5 *Horsham Case* (1869) 20 LT 180; *Finsbury Case* (1892) (cited in Day 16); *Cirencester Case* (1893) (cited in Day 16). In *Horsham Case* supra, particulars of such votes were ordered to be given three days before the trial.
6 *Neild v Batty* (1874) LR 9 CP 104.
7 *Finsbury, Central Division Case* (1892) 4 O'M & H 171 at 173–174.
8 See note 7 supra.
9 See note 7 supra.

849. Inspection of ballot papers and orders for production of election or referendum documents. Documents which relate to a parliamentary election or to a local government election for a principal area, parish or community council are kept in the custody of the relevant registration officer[1]; documents which relate to a local authority mayoral election or a local authority referendum or poll consequent on a parish or community meeting are kept in the custody of the proper officer of the appropriate local authority[2]; documents which relate to a London Authority election are kept under the control of the Greater London returning officer[3]; documents which relate to the election of members to the National Assembly for Wales are kept in the custody of the National Assembly for Wales[4]; and documents relating to European parliamentary elections are retained by the local returning officer[5]. An order may be made for the inspection or production of any rejected ballot papers[6] or for the opening of a sealed packet of the completed corresponding number lists (in the case of a parliamentary election or local government election for a principal area, parish or community council) or a sealed packet of counterfoils (in the case of any other election) and certificates as to employment on duty on the day of the poll[7] or for the inspection

of counted ballot papers which are kept in such custody or control[8]; and no person is allowed to inspect any rejected or counted ballot papers, or to open any sealed packets of completed corresponding number lists (or counterfoils, as the case may be) and certificates which are kept in such custody or control, otherwise than in accordance with such an order[9]. If satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of an election or referendum petition, the order may be made by a county court or, in the case of a parliamentary, Welsh Assembly or European parliamentary election petition, by the High Court or a county court[10]. In the case of a parliamentary election petition, the order may also be made by the House of Commons[11]; and in the case of a Welsh Assembly election petition, the order may also be made by the National Assembly for Wales[12]. An order for the opening of a sealed packet of completed corresponding number lists (or counterfoils, as the case may be) and certificates[13] or for the inspection of any counted ballot papers kept in such custody or control may be made by an election court[14]. The order may be made subject to such conditions as to persons, time, place and mode of inspection, production or opening as the court making the order (or, as the case may be, the House of Commons or the National Assembly for Wales) may think expedient[15]. However, in making and carrying into effect an order for the opening of a sealed packet of completed corresponding number lists (or counterfoils, as the case may be) and certificates or for the inspection of counted ballot papers which are kept in custody, care must be taken that the way in which the vote of any particular elector has been given is not disclosed until it has been proved that his vote was given and that the vote has been declared by a competent court to be invalid[16].

Strong grounds for making an order must be shown, and the court must be satisfied that the application for it is made in good faith, and will rarely, if ever, grant it unless a petition or prosecution has been instituted or is about to be instituted[17] and it is shown to be really required[18].

The power to make an order which is given to a county court (or, in the case of a parliamentary, Welsh Assembly or European parliamentary election petition, the High Court) may be exercised by any judge of the court otherwise than in open court[19]. An appeal lies to the High Court from an order of a county court[20].

1 For the meaning of 'relevant registration officer' for these purposes see para 494 note 3 ante. As to the retention of parliamentary election documents by the relevant registration officer see para 503 ante; and as to the retention of local government documents by the relevant registration officer see para 504 ante.

2 As to the retention of local authority mayoral election documents by the proper officer of the appropriate local authority see para 504 ante; and as to the retention of documents relating to a local authority referendum or poll consequent on a parish or community meeting by the proper officer of the council see para 665 ante. For the meaning of 'proper officer' generally see para 155 note 2 ante. For the meaning of 'local authority' for the purposes of a local authority mayoral election see LOCAL GOVERNMENT vol 29(1) (Reissue) para 24. For the purposes of a poll consequent on a parish meeting involving an appointment to office, the proper officer is specified as being the proper officer of the council of the district in which the parish is situate or the county or county borough in which the community is situate: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 35(1)(a). For the purposes of a poll consequent on a parish or community meeting, any references to a proper officer of a council means any officer appointed for the purpose by that council: Schedule r 38(3).

3 As to the retention of documents relating to London Authority elections by the Greater London returning officer see para 505 ante. For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

4 As to the retention of documents relating to the election of members to the National Assembly for Wales see para 506 ante. As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

5 As to the retention of European parliamentary election documents by the local returning officer see para 507 ante. As to local returning officers appointed for the purposes of European parliamentary elections see para 365 et seq ante. As to documents retained after a European parliamentary election held

in the combined region (as to which see para 76 ante) see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 60(9).

6 Representation of the People Act 1983 s 23(1), Sch 1 r 56(1)(a) (amended by the Electoral Administration Act 2006 s 41(1), (4)(a)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(1)(a); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 49(1)(a), Sch 2 r 52(1)(a), Sch 3 r 54(1)(a) (Sch 1 r 49(1)(a), Sch 2 r 52(1)(a), Sch 3 r 54(1)(a) all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 52(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 63(1)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(1)(a); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 53(1)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 53(1)(a). At the date at which this volume states the law, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47(1)–(5), (8) is applied and modified for the purposes set out in the text in the context of a local authority referendum (see para 557 ante), in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4. At a local government election or at a poll consequent on a parish or community meeting, 'rejected ballot papers' includes ballot papers rejected in part: see the Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(1)(a); the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(1)(a); and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(1)(a). There is no provision in any context to an order in respect of tendered ballot papers (as to which see para 408 ante); however, such ballot papers must be available to the election court so as to indicate how the voter who was entitled to vote would have voted if someone had not voted in his name before him.

The amendment effected by the Electoral Administration Act 2006 s 41(4) has no effect in relation to any documents which have been or must be forwarded to the Clerk of the Crown on or before 2 May 2007, in accordance with either the Representation of the People Act 1983 Sch 1 r 55 (as amended) (see para 494 ante) or the Representation of the People (England and Wales) Regulations 2001, SI 2001/341, reg 91 (as amended) (see para 495 ante): see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 4. As to the Clerk of the Crown see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 921.

7 As to certificates of employment on duty on the day of the poll see para 402 ante. There are no such certificates at a poll consequent on a parish or community meeting.

8 Representation of the People Act 1983 Sch 1 r 56(1)(b) (amended by the Electoral Administration Act 2006 s 31(1), (7)(a)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(1)(b); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(1)(b), Sch 2 r 52(1)(b), Sch 3 r 54(1)(b) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(1)(b); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(1)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(1)(b). As to the completed corresponding number lists see para 410 note 10 ante.

Any amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 s 31 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

9 Representation of the People Act 1983 Sch 1 r 56(8) (amended by the Electoral Administration Act 2006 ss 31(1), (7)(e), 41(1), (4)(a)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(8); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(8), Sch 2 r 52(8), Sch 3 r 54(8) (amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(8); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(8); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(8); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(8); and see note 6 supra. As to the effect of amendments

effected by the Electoral Administration Act 2006 s 41(4) see note 6 supra; and as to those effected by s 31 see note 8 supra. As to documents which have been produced by order for the purposes of the trial of a petition see para 834 ante.

10 Representation of the People Act 1983 Sch 1 r 56(1)(ii); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(1); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(1), Sch 2 r 52(1), Sch 3 r 54(1); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(1)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(1); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(1); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(1); and see note 6 supra. As to parliamentary election petitions see para 759 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante.

Dereliction of duty in counting ballot papers is an offence in relation to ballot papers: *McWhirter v Platten* [1970] 1 QB 508, [1969] 1 All ER 172, DC. On its true construction, what is now the Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(1) permits an application to be made before any final decision was taken whether or not to present an election petition provided only and always that: (1) its purpose was to resolve a real doubt as to the correctness of the declared result; and (2) there was a real likelihood that, were the inspection to show the result incorrect, an election petition would follow; an application for a production and inspection order might also be made to establish whether it was worthwhile to present a petition: *Gough v Local Sunday Newspapers (North) Ltd* [2003] EWCA Civ 297, [2003] 2 All ER 456, [2003] 1 WLR 1836, which also cites *Re Three Rivers District Council Elections* (26 July 1991, unreported) (consent order made by county court for purpose of formal recount; election petition followed).

11 Representation of the People Act 1983 Sch 1 r 56(1)(i). The requirement about being satisfied as to the purpose of the order does not apply to an order made by the House of Commons.

12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(1)(i). The requirement about being satisfied as to the purpose of the order does not apply to an order made by the National Assembly for Wales.

13 There are no certificates as to employment at a poll consequent on a parish or community meeting.

14 Representation of the People Act 1983 Sch 1 r 56(2) (amended by the Electoral Administration Act 2006 ss 31(1), (7)(b), 41(1), (4)(b)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(2); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(2), Sch 2 r 52(2), Sch 3 r 54(2) (all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(2); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(2); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(2); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(2); and see note 6 supra. As to the effect of amendments effected by the Electoral Administration Act 2006 s 41(4) see note 6 supra; and as to those effected by s 31 see note 8 supra.

15 Representation of the People Act 1983 Sch 1 r 56(3); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(3), Sch 2 r 52(3), Sch 3 r 54(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(3); and see note 6 supra.

16 Representation of the People Act 1983 Sch 1 r 56(3) (amended by the Electoral Administration Act 2006 s 31(1), (7)(c)); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(3); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(3), Sch 2 r 52(3), Sch 3 r 54(3); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(3); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(3); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(3); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(3); and see note 6 supra. As to the effect of the Electoral Administration Act 2006 s 31 see note 8 supra.

17 In *Re Lancashire, Darwin Division Case* (1885) 2 TLR 220, DC, the court refused to allow an inspection of the ballot papers in the absence of a petition, and doubted whether it had jurisdiction to make such an order unless on a petition; but cf *McWhirter v Platten* [1970] 1 QB 508, [1969] 1 All ER 172, DC, where an order was made before the institution of a prosecution on the ground that the offenders and the nature

of offences could not be ascertained until the ballot papers had been inspected. Where such an order has been made, the court at the trial of an indictment for an offence respecting the ballot papers may allow inspection of them: see *R v Beardsall* (1876) 1 QBD 452, CCR; *R v Quinlan* [1908] 2 IR 155.

18 *Re Lancashire, Darwin Division Case* (1885) 2 TLR 220, DC (cited in note 17 supra); and see *R v Beardsall* (1876)1 QBD 452, CCR; *R v Quinlan* [1908] 2 IR 155.

19 Representation of the People Act 1983 Sch 1 r 56(5)(a); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(5); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(5), Sch 2 r 52(5), Sch 3 r 54(5); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(5); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(5); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(5); and see note 6 supra.

20 Representation of the People Act 1983 Sch 1 r 56(4); Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, Schedule r 35(4); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 r 49(4), Sch 2 r 52(4), Sch 3 r 54(4); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, Sch 1 r 52(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 63(4); European Parliamentary Elections Regulations 2004, SI 2004/293, Sch 1 para 60(4); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(4); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(4); and see note 6 supra.

850. Evidence of vote at election, referendum or poll. In relation to a parliamentary election petition or a petition questioning a local government election for a principal area, parish or community council[1], the production from proper custody of: (1) a ballot paper purporting to have been used at any such election[2]; and (2) a completed corresponding number list with a number marked in writing beside the number of the ballot paper[3], is prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors[4] contained the same number as the number written as mentioned in head (2) above[5].

In relation to any other election or to any referendum or poll, the production from proper custody or control[6] of a ballot paper purporting to have been used at any such election, referendum or poll, and of a counterfoil marked with the same printed number and having a number marked on it in writing[7], is prima facie evidence that the elector whose vote was given by that ballot paper was the person who, at the time of the election, referendum or poll, had affixed to his name in the register of electors the same number as that written on the counterfoil[8].

1 As to parliamentary election petitions see para 759 ante; and as to petitions questioning a local government election see para 760 ante.

2 Representation of the People Act 1983 s 23(1), Sch 1 r 56(7)(a) (Sch 1 r 56(7) substituted by the Electoral Administration Act 2006 s 31(1), (7)(d)); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, r 3, Sch 2 r 53(7)(a); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, r 3, Sch 2 r 53(7)(a).

Any amendment of the Representation of the People Act 1983 effected by the Electoral Administration Act 2006 s 31 has no effect in relation to an election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 2 May 2007: see the Electoral Administration Act 2006 (Commencement No 2, Transitional and Savings Provisions) Order 2006, SI 2006/3412, art 6, Sch 2 para 1.

3 Representation of the People Act 1983 Sch 1 r 56(7)(b) (as substituted: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(7)(b); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(7)(b). See note 2 supra. As to the completed corresponding number lists see para 410 note 10 ante.

4 Ie or on a notice issued under the Representation of the People Act 1983 s 13B(3B) (as added) or s 13(3D) (as added) (notices specifying appropriate alterations to the register: see para 175 ante) at the time of the election.

5 Ibid Sch 1 r 56(7) (as substituted: see note 2 supra); Local Elections (Principal Areas) (England and Wales) Rules 2006, SI 2006/3304, Sch 2 r 53(7); Local Elections (Parishes and Communities) (England and Wales) Rules 2006, SI 2006/3305, Sch 2 r 53(7). See note 2 supra.

6 As to proper custody or control for these purposes see para 849 ante.

7 As to the ballot paper and security measures associated with the ballot paper see paras 391–392 ante.

8 Parish and Community Meetings (Polls) Rules 1987, SI 1987/1, r 5, Schedule r 35(7); Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 3(1)–(3), Sch 1 r 49(7), Sch 2 r 52(7), Sch 3 r 54(7) (Sch 1 r 49(7), Sch 2 r 52(7), Sch 3 r 54(7) all amended by SI 2004/227); Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002, SI 2002/185, reg 3(1), Sch 1 r 52(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 63(7); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 9(1), Sch 1 para 60(7). At the date at which this volume states the law, the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47(8) is applied and modified for the purposes set out in the text in the context of a local authority referendum (see para 557 ante), in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. In relation to a local authority referendum at which voting is by post only (as to which see para 595 et seq ante), the Local Elections (Principal Areas) Rules 1986, SI 1986/2214, Sch 2 r 47 (as applied and modified) is further modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 10, Sch 4 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 10, Sch 4.

851. Petitions following equality of votes at election or referendum. If it appears that there is an equality of votes between any candidates at a parliamentary election[1] or election under the local government Act[2] and that the addition of a vote would entitle any of these candidates to be declared elected, any decision by a returning officer at the election, in so far as it determines the question between those candidates, is effective also for the purposes of the petition[3]. In so far as that question is not determined by such a decision, the court must decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote[4].

If, in relation to a Welsh Assembly election petition[5], it appears that there is an equality of votes between any candidates at a constituency election[6] or two or more individual candidates or registered political parties at a regional election have the same electoral region figure[7], and that the addition of a vote would entitle any of those individual candidates or any party list candidate of those parties to be declared elected, any decision in the case of a constituency election[8] or in the case of a regional election[9], is, in so far as it determines the question as to who is elected, effective also for the purposes of the petition[10]. In so far as that question is not determined by such a decision, the court must decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote[11].

If the petition relates to an election conducted under the European parliamentary elections rules[12] and it appears that there is an equality of votes between any registered parties or individual candidates at the election[13], and that the addition of a vote would entitle any of those registered parties or individual candidates to be declared elected then any decision as to equality of votes in the European parliamentary elections rules[14], as the case may be, is in so far as it determines the question between those registered parties or individual candidates, effective also for the purposes of the petition[15]. In so far as that question is not determined by such a decision, the court must decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote[16].

Where the petition relates to a referendum[17] as regards which, by reason of an equality of votes found at the count, the result was determined by lot, that determination is effective also for the purposes of the petition[18]. However, where the court disallows any vote cast in the referendum, such a determination has no effect and the court must declare the result of the referendum[19]. Where the petition relates to a referendum at which no equality of votes was found at the count and the court disallows any vote cast in the referendum and determines that an equality of votes was cast in the referendum, the result of the referendum must be determined by the court by lot[20].

1 For the meaning of 'parliamentary election' see para 9 ante. As to parliamentary election petitions see para 759 ante.
2 For the meaning of 'election under the local government Act' see para 10 note 2 ante. As to the questioning of an election under the Local Government Act 1972 see para 760 ante.
3 Representation of the People Act 1983 s 139(6)(a). As to the decision by lot by the returning officer in the case of equality of votes at parliamentary and local government elections see para 441 ante; and in the case of equality of votes at a London Authority election see para 447 ante.
4 Representation of the People Act 1983 s 139(6)(b). For a decision by lot by the court see *Levers v Morris* [1972] 1 QB 221, [1971] 3 All ER 1300, DC.
5 As to Welsh Assembly election petitions see para 762 ante.
6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(6)(a). For the meaning of 'constituency election' in the context of Welsh Assembly elections see para 3 note 1 ante. In the case of equality of votes at a Welsh Assembly constituency election see para 466 ante.
7 Ibid art 94(6)(b). In the case of equality of votes at a Welsh Assembly regional election see para 467 ante. For the meaning of 'Assembly regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; and for the meanings of 'individual candidate' and 'party list candidate' in relation to such elections see para 237 note 23 ante. The text refers to 'electoral region figure' within the meaning of the Government of Wales Act 1998 s 6(3) (see para 345 ante). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 8(5); and para 345 ante.
8 Ie any decision between the candidates by lot under the provisions in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 16(1), Sch 5 para 55 (see para 466 ante).
9 Ie any decision between the parties or individual candidates by lot under the Government of Wales Act 1998 s 7(9) (see para 345 ante) and the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Sch 5 para 58(8) (see para 467 ante). The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 9(9); and para 345 ante.
10 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 94(7)(a).
11 Ibid art 94(7)(b).
12 For the meaning of 'European parliamentary elections rules' see para 388 ante. As to European parliamentary election petitions see para 763 ante.
13 For the meaning of 'registered party' in relation to a European parliamentary election see para 237 note 30 ante; and for the meaning of 'individual candidate' in relation to such an election see para 237 note 32 ante.
14 As to the case of equality of votes at a European parliamentary election see para 345 ante.
15 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 96(5)(a).
16 Ibid reg 96(5)(b).
17 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The provision made for the questioning of an election under the Local Government Act 1972 is applied and modified for the purpose of questioning a local authority referendum: see para 764 ante.
18 Representation of the People Act 1983 s 139(6) (s 139 as applied and modified: see note 17 supra).
19 Ibid s 139(6A) (as applied and modified: see note 18 supra).
20 Ibid s 139(6B) (as applied and modified: see note 18 supra).

852. Effect of judges' disagreement as to votes at a parliamentary election.

If, on a parliamentary election petition[1], the judges constituting the court differ as to whether a vote should be added, it is not added[2]; if they differ as to whether a vote should be struck off, it is not struck off[3].

1 As to parliamentary election petitions see para 759 ante.
2 *Berwick-on-Tweed Case* (1880) 3 O'M & H 178 at 182.
3 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 40.

H. RECOUNT

853. Application for recount at election. A petition which asks for a recount and claims the seat is a good petition even if it asks for nothing more[1]. The usual practice is for an application for a recount to be made by summons to a judge on the rota for the trial of parliamentary election petitions before the trial on an affidavit showing the grounds on which the application is based[2]. A recount is not granted as of right, but on evidence of good grounds for believing that there has been a mistake on the part of the returning officer[3]. If there are more than two candidates for more than one seat and a petition is presented against one, claiming as against him a recount and the seat, it is not necessary for the petitioner to claim a general recount, that is as regards the other candidate or candidates as well; on the recount against the respondent resulting in the petitioner's favour, he becomes entitled to the respondent's seat[4].

1 See paras 759 et seq ante; and Day's Election Cases 4.

2 As to the manner of making interim applications see paras 800–801 ante, and Day's Election Cases 16. In *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 50, however, the application was not made until the trial.

3 *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 50–51.

4 *Lord Monkswell v Thompson* [1898] 1 QB 479 (a municipal election case). It is not clear whether in such a case it is open to the respondent, except by petition against the other successful candidate or candidates, to claim a recount against him or them. See the judgment of Hawkins J and Channell J in *Lord Monkswell v Thompson* supra at 484–486. It is submitted that it is not open to the respondent to do so, on the ground that it would be a questioning of the election or return of such candidate or candidates and so could only be effected by petition.

854. Procedure for recount. If an application for a recount is granted[1], the usual practice is to order the recount to be taken before the trial by an officer appointed for the purpose[2]. The order directing it generally directs that it is to be taken at the Royal Courts of Justice[3]. The respondent's ballot papers are counted by the petitioner and are then handed to the respondent to be checked by him, and those for the petitioner are similarly dealt with by the respondent. If any are disputed, the officer's opinion is sometimes asked and given, and if any paper remains disputed by either party, the officer reserves it for the decision of the election court, setting it out in his report[4]. After the counted ballot papers have been thus disposed of, the rejected ballot papers are dealt with in the same way.

1 As to applications for a recount at an election see para 853 ante.

2 *Halifax Case* (1893) 4 O'M & H 203; but see note 4 infra. The officer appointed is normally the Senior Master.

3 This is the usual practice, but in *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 51, Denman J himself counted the ballot papers, the parties desiring that he might do so in order to save time and expense, but he stated that this was not to be a precedent. In *Renfrew County Case* (1874) 2 O'M & H 213, the recount took place in open court. As to the procedure to be followed when, the result of an election having been declared by the returning officer, a parcel of ballot papers is discovered uncounted see *Gough v Local Sunday Newspapers (North) Ltd* [2003] EWCA Civ 297, [2003] 2 All ER 456, [2003] 1 WLR 1836 (informal count of uncounted ballot papers made in absence of parties). See also *Macmanomy v Westley* (4 July 1986, unreported) (formal count of votes in overlooked ballot box in presence of parties followed by recount of all the ballot papers cast); *Marshall v Gibson* (14 December 1995, unreported) (informal recount carried out in absence of parties followed by formal petition).

4 If the statutory requirements regarding the marking of a ballot paper are not substantially fulfilled, the ballot paper is void, and should not be counted; and, if it is counted, it should be struck out on a scrutiny. The decision in each case is upon a point of fact, to be decided first by the returning officer, and afterwards by the election tribunal, on petition: *Woodward v Sarsons* (1875) LR 10 CP 733. Each voting paper must be looked at on its merits and it is a matter of first impression whether the vote was clearly cast for one candidate or not: *Cornwell v Marshall* (1976) 75 LGR 676, DC; *Petition of Rowe* [2001] All ER (D) 329 (Dec), DC.

I. REFERENCE OF QUESTION OF LAW

855. Reference of question of law by statement of case. If it appears to the election court, on the trial of an election or referendum petition[1], that any question of law as to the admissibility of evidence or otherwise requires further consideration by the High Court, the election court may postpone the granting of a certificate[2] until the question has been determined by the High Court, and for this purpose may reserve the question by stating a case for the decision of the High Court[3]. The case is heard by a Divisional Court[4].

The election court will not reserve a point about which the court entertains no doubt, even though application is made to reserve it[5]. A point of law may not be reserved unless it is one which would affect the whole result of the trial of the petition[6].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Ie a certificate of determination on the petition. In relation to a parliamentary election petition see para 856 post; in relation to a local government election petition see para 859 post; in relation to a Welsh Assembly election petition see para 861 post; in relation to a European parliamentary election petition see para 863 post; and in relation to a local authority referendum petition see para 864 post.

3 Representation of the People Act 1983 s 146(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 101(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 101(3); and see note 1 supra. The application to reserve a question should be made before the question is decided: *Londonderry City Case* (1886) 4 O'M & H 96 at 103. Where the election court decides a point, the fact of its being a difficult one does not make it a necessary practice that it should, on the application of one of the parties, reserve it for the Divisional Court: *Re Gloucestershire, Thornbury Division, Election Petition* (1886) 16 QBD 739 at 740 per Lord Coleridge CJ. Where, on the argument before the Divisional Court of a question of law reserved by a commissioner on the trial of a municipal election petition, the respondent claimed the right to begin on the ground that he was in the position of one appealing from the commissioner's decision, and the petitioner opposed the claim, the court was of opinion that the respondent should begin: *Re Gloucester Municipal Election Petition 1900, Ford v Newth* [1901] 1 KB 683 at 686, DC. In *Re Stepney Election Petition, Isaacson v Durant* (1886) 17 QBD 54, on the argument of a question of law reserved by judges trying a parliamentary election petition without deciding the question reserved, the point as to the right to begin was not raised, but the petitioner in fact began. In *Re Gloucestershire, Thornbury Division, Election Petition* supra where also this point seems not to have been in dispute, the petitioner, who was in the position of an appellant from the decision, began. As to proceeding on a petition by way of special case stated (a much more common procedure than reference of a question of law by statement of case) see para 814 ante.

4 See CPR Sch 1 RSC Ord 94 r 5(2); and para 770 note 10 ante. See also *Nichol v Fearby* [1923] 1 KB 480 at 493 per McCardie J. It is the practice, however, for cases to be heard by judges on the rota.

5 *Horsham Case, Aldridge v Hurst* (1876) 3 O'M & H 52 at 56; *Down County Case* (1880) 3 O'M & H 115 at 120; *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 114.

6 *Taunton Borough Case* (1874) 2 O'M & H 66 at 71 per Grove J; *Re Stepney Election Petition, Isaacson v Durant* (1886) 17 QBD 54 at 55 per Lord Coleridge CJ.

(vii) The Judgment and its Effect

A. PARLIAMENTARY ELECTION PETITION

856. Determination of parliamentary election petition. At the conclusion of the trial of a parliamentary election petition[1], the election court has to determine whether the member whose return or election is complained of (or any and what other person) was duly returned or elected, or whether the election was void[2]. If the judges constituting the election court differ on the question whether the member whose election or return is complained of was duly elected or returned, they must certify that

difference, and the member or representative is deemed to be duly elected or returned[3]. If the judges determine that the member was not duly elected or returned, but differ as to the rest of the determination, they must certify that difference and the election is deemed to be void[4]. The court must forthwith certify the determination in writing to the Speaker of the House of Commons[5]. On such certificate being given, the determination is final to all intents and purposes[6].

1 As to parliamentary election petitions see para 759 ante.
2 Representation of the People Act 1983 s 144(1). It has been stated that, before upsetting an election, the court ought to be satisfied beyond all doubt that the election is void: *Warrington Case* (1869) 1 O'M & H 42 at 44 per Martin B.
3 Representation of the People Act 1983 s 144(3)(a).
4 Ibid s 144(3)(b).
5 Ibid s 144(2). See para 814 note 8 ante.
6 Ibid s 144(1). Thus where an election petition claims the seat for an unsuccessful candidate, and the judges at the trial decide that the candidate was duly elected, a petition against that candidate's return cannot be presented subsequently: *Taunton Case, Waygood v James* (1869) LR 4 CP 361. If, however, collusion between the respondent and such a successful petitioner was shown, it might be competent for the House of Commons to order a second investigation, even though it might not be within the competency of the court to do so: *Taunton Case, Waygood v James* supra at 369 per Willes J and at 373 per Brett J (but Brett J thought that the judgment, being a judgment in rem, might not be final if obtained by fraud and deception of the court).

857. Matters to be reported by court hearing parliamentary election petition. Where a charge is made in a parliamentary election petition[1] of any corrupt or illegal practice having been committed at the election in question, the election court must, in addition to giving a certificate[2] and at the same time, make a report to the Speaker of the House of Commons[3], stating: (1) whether any corrupt or illegal practice has or has not been proved to have been committed by or with any candidate's knowledge and consent at that election, and the nature of such corrupt or illegal practice[4]; (2) whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election[5]; (3) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice[6]; (4) whether corrupt or illegal practices have extensively prevailed at the election, or whether there is reason to believe that corrupt or illegal practices have so prevailed[7]. However, before any person who is neither a party to an election petition nor a candidate on whose behalf the seat or office is claimed by the petition is reported by an election court to have been guilty of any corrupt or illegal practice, the court must cause notice to be given to him[8], and, if he appears in pursuance of the notice, the court must give him an opportunity of being heard by himself[9] and of calling evidence in his defence to show why he should not be so reported[10]. At the time of making its report, the election court may also make a special report as to any matters arising in the course of the trial, an account of which in the court's judgment ought to be submitted to the House of Commons[11].

Every report sent to the Speaker must be signed by both judges of the election court and, if the judges differ as to the subject of the report, they must certify that difference and make no report on the subject on which they so differ[12]. The report of the election court also must be laid before the Director of Public Prosecutions[13]. In order that any person should become subject to any incapacities or disabilities in consequence of the report of an election court[14], the report must contain, or must be equivalent to, a definite finding that he is guilty of the offence or offences entailing such incapacities or disabilities; he does not become subject to them by reason only of a report stating facts from which his guilt may be inferred[15]. Unlike its certificate of determination, the election court's report is not final and conclusive as to the matters contained in it[16].

1 As to parliamentary election petitions see para 759 ante.
2 Ie a certificate of determination on the petition: see para 856 ante.
3 See para 814 note 8 ante.
4 Representation of the People Act 1983 ss 144(4), 158(1). As to the consequences of a candidate being reported guilty of a corrupt or illegal practice see para 892 et seq post.
5 Ibid ss 144(4), 158(3).
6 Ibid ss 144(4), 160(1) (s 160(1) amended by the Representation of the People Act 1985 s 28(1), Sch 5).
7 Representation of the People Act 1983 s 144(4). As to the meaning of 'extensively prevailed' see *Maidstone Borough Case, Cornwallis v Barker* (1901) 5 O'M & H 149 at 152–153.
8 Such notice should give the recipient sufficient detail to know the basis on which the court is seeking to name him in its report; there is no requirement for the notice to be in writing, but it would be easier to prove if it is in writing: *R (on the application of Khan) v Election Comr* [2005] EWHC 2365 (Admin), [2005] All ER (D) 203 (Oct) (applicant had not been named in the election petition and the opportunity afforded him to give evidence on behalf of some of the respondents did not constitute the statutory notice to the claimant required under the Representation of the People Act 1983 s 160(1)).
9 If the person on whom the notice is served is desirous of appearing and showing cause against being reported, he can only be heard in person; counsel or solicitor may not be heard on his behalf: *R v Mansel Jones* (1889) 23 QBD 29, DC. This case must be taken to overrule the decision of Denman J and Cave J in *Ipswich Election Petition* (1886) cited in the argument on the trial of *R v Mansel Jones* supra. Blackburn J, in *Bewdley Case* (1869) 1 O'M & H 174 at 176, was of opinion that a person who had received notice in consequence of charges of bribery being proved against him was entitled to be heard by counsel; but this opinion was given on the wording of the Parliamentary Elections Act 1868 s 45 (repealed), which did not contain the words 'by himself'. It was decided by all three judges in *R v Mansell Jones* supra at 34–35 that the election court had no discretion to hear counsel on behalf of persons showing cause against being reported.
10 Representation of the People Act 1983 s 160(1). Section 160(1) is a procedural provision and no finding akin to a criminal finding of guilt should be arrived at without the subject of that finding having had an opportunity to address the allegations against him: *R (on the application of Khan) v Election Comr* [2005] EWHC 2365 (Admin), [2005] All ER (D) 203 (Oct).
11 Representation of the People Act 1983 s 144(5).
12 Ibid s 144(6).
13 Ibid s 160(3) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 52(b)). As to prosecutions by the Director of Public Prosecutions see para 880 post.
14 As to these incapacities and disabilities see para 899 et seq post.
15 *Grant v Pagham Overseers* (1877) 3 CPD 80. See also *Re Launceston Case, Drinkwater v Deakin* (1874) LR 9 CP 626 at 636–637 per Lord Coleridge CJ.
16 *Stevens v Tillett* (1870) LR 6 CP 147. In this case, where the judge, on the trial of a previous election petition, had reported that, in his opinion, the election had been properly conducted on the part of the then petitioner, it was held that, notwithstanding the report, on a petition against him in respect of a subsequent election, charges of corruption connected with the former election which had since become known might be gone into.

858. Subsequent action by House of Commons. On being informed by the Speaker of the House of Commons[1] of a certificate[2] and any report of an election court[3] trying a parliamentary election petition[4], the House of Commons must order the certificate and report, if any, to be entered in its Journals and give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require[5]. Where the judges make a special report[6], the House of Commons may make such order in respect of that report as it thinks proper[7].

1 See para 814 note 8 ante.
2 Ie a certificate of determination on the petition: see para 856 ante.
3 As to matters reported by an election court see para 857 ante.
4 As to parliamentary election petitions see para 759 ante.
5 Representation of the People Act 1983 s 144(7). The House of Commons Disqualification Act 1975 s 6(2) (relief for persons who are otherwise disqualified from membership of the House of Commons) has effect subject to these provisions: see s 6(3); and PARLIAMENT vol 34 (Reissue) para 612.
6 See para 857 ante.
7 Representation of the People Act 1983 s 144(7).

B. LOCAL GOVERNMENT ELECTION PETITION

859. Determination of local government election petition and subsequent procedures. At the conclusion of the trial of a petition questioning an election under the Local Government Act 1972[1], the election court must determine whether the person whose election is complained of (or any and what other person) was duly elected, or whether the election was void[2]. The election court must forthwith certify the determination in writing to the High Court[3]; and the determination so certified is final to all intents as to the matters at issue on the petition[4]. A copy of any certificate made to the High Court must be sent by the High Court to the Secretary of State[5]; and the High Court must by the signatures of two or more of its judges certify such a copy of the certificate to the proper officer of the authority for which the election was held[6].

Where, on a petition questioning an election under the Local Government Act 1972[7], the election of any person has been declared void[8], and no other person has been declared elected in his place[9], a new election must be held to fill the vacancy in the same manner as on a casual vacancy[10].

Where the election court makes a determination in respect of the election of the Mayor of London[11] or in respect of the election of a constituency member of the London Assembly[12] and where: (1) the determination of the election court is that the person whose election is complained of was not duly elected[13] or that the election was void[14]; and (2) the return of that person at that election was taken into account for the purpose of deciding which persons were to be returned as London members of the London Assembly[15], the validity of the return of the London members of the London Assembly is affected neither by the determination of the election court[16] nor, in a case of the election of a constituency member of the London Assembly, by the subsequent return of a person as the constituency member for the Assembly constituency concerned[17]. Where the election court has made a determination at the conclusion of the trial of a petition questioning the election of the London members of the London Assembly at an ordinary election[18] and where[19] the proper officer of the Greater London Authority receives the copy of the certificate of the election court's determination in relation to the election which was questioned, he must send notice of the determination to the Greater London returning officer[20]. If the election is not declared void but the return of a candidate at the election is declared void[21], and no other person has been declared returned in his place[22], the vacancy must be filled (or, as the case may be, remain unfilled) as if it were a casual vacancy[23]. If the election is declared void, a new election must be held in the same manner as at an ordinary election[24], with the date of the poll at the new election being fixed by the Greater London returning officer[25] but falling no later than three months after the receipt by the Greater London returning officer of the notice of the determination[26]. If the determination of the election court is that the election is void, the Greater London returning officer must inform the returning officer for each Assembly constituency[27] of the contents of the notice of the determination[28] and of the date fixed for the poll at the new election[29]. The results of the elections of the constituency members of the London Assembly at the last ordinary election have effect for the purposes of ascertaining the results of the new election[30].

1 As to the questioning of an election under the Local Government Act 1972 see para 760 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Representation of the People Act 1983 s 145(1). Where the petition relates to an election of the London members of the London Assembly at an ordinary election, the election court must determine whether: (1) the person or persons whose return is complained of were duly returned (s 145(1A)(a) (s 145(1A) added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 33)); (2) some other person or persons should have been declared to be returned (Representation of the People Act 1983 s 145(1A)(b)

(as so added)); or (3) the election was void (s 145(1A)(c) (as so added)). For the meaning of 'London member' see para 10 note 5 ante. As to ordinary elections of London members of the London Assembly see para 206 et seq ante.

3 Ibid s 145(2). In giving judgment, it is the practice for the court to give the reasons on which the judgment is based: see para 866 post.

4 Ibid s 145(1). As to the possibility of judicial review in respect of the election court's determination see para 767 note 1 ante. See also *Taunton Case, Waygood v James* (1869) LR 4 CP 361. However, in *Goole Case, Marsland v Hickman* (1886) 2 TLR 398, DC, where it was argued on a municipal election petition that the election commissioner had in his report exceeded his powers, Grove J thought that as the commissioner's decision was final the High Court had no jurisdiction, and Stephens J said he entertained considerable doubt on the question of the High Court's jurisdiction and that at any rate the jurisdiction, if it existed, ought only to be exercised under extraordinary circumstances and where it was required in order that justice might be done.

5 Representation of the People Act 1983 s 145(5). As to the Secretary of State see para 2 ante.

6 Ibid s 145(6). For the meaning of 'proper officer' see para 155 note 2 ante.

7 Ie except in the case of an election of the London members of the London Assembly at an ordinary election (for which separate provision is made: see the text and notes 18–30 infra): s 135(1A) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 32(1)).

8 Representation of the People Act 1983 s 135(1)(a).

9 Ibid s 135(1)(b).

10 Ibid s 135(1). As to the filling of casual vacancies in local government offices see paras 209–212 ante. For the purposes of such an election, any duties to be performed by any officer are, if he has been declared not elected, to be performed by a deputy or other person who might have acted for him if he had been incapacitated by illness: s 135(2). As to elections in the City of London see para 30 ante.

11 Ibid s 145A(1)(a) (s 145A added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 34). For the meaning of 'election of the Mayor of London' see para 10 ante. As to elections for the return of an elected Mayor of London see para 206 et seq ante.

12 Representation of the People Act 1983 s 145A(1)(b) (as added: see note 11 supra). For the meanings of 'constituency member' and 'election of a constituency member of the London Assembly' see para 10 ante. As to ordinary elections of constituency members of the London Assembly see para 206 et seq ante.

13 Ibid s 145A(2)(a) (as added: see note 11 supra).

14 Ibid s 145A(2)(b) (as added: see note 11 supra).

15 Ibid s 145A(3) (as added: see note 11 supra).

16 Ibid s 145A(4)(a) (as added: see note 11 supra).

17 Ibid s 145A(4)(b) (as added: see note 11 supra).

18 Ibid s 135A(1) (s 135A added by the Greater London Authority Act 1999 Sch 3 paras 1, 32(2)).

19 Ie pursuant to the Representation of the People Act 1983 s 145(6) (see the text and note 6 supra).

20 Ibid s 135A(2) (as added: see note 18 supra). For the meaning of 'Greater London returning officer' see para 218 note 7 ante.

21 Ibid s 135A(3)(a) (as added: see note 18 supra).

22 Ibid s 135A(3)(b) (as added: see note 18 supra).

23 Ibid s 135A(3) (as added: see note 18 supra). The text refers to the filling of a casual vacancy under the Greater London Authority Act 1999 s 11 (see para 211 ante).

24 Representation of the People Act 1983 s 135A(4) (as added: see note 18 supra).

25 Ibid s 135A(5) (as added: see note 18 supra).

26 Ibid s 135A(6) (as added: see note 18 supra). A new election is not to be held if the latest date which may be fixed for the poll falls within the period of three months preceding an ordinary election: s 135A(7) (as so added). As to London Assembly ordinary elections see para 206 ante.

27 For the meaning of 'Assembly constituency' in the context of elections to the London Assembly see para 10 ante; and for the meaning of 'constituency returning officer' see para 218 note 8 ante.

28 Representation of the People Act 1983 s 135A(8)(a) (as added: see note 18 supra).

29 Ibid s 135A(8)(b) (as added: see note 18 supra).

30 Ibid s 135A(9) (as added: see note 18 supra).

860. Matters to be reported by court hearing local election petition. Where a charge is made in a petition questioning an election under the Local Government Act 1972[1] of any corrupt or illegal practice having been committed at the election, the election court must, in addition to its certificate[2] and at the same time, make a report in writing to the High Court stating: (1) whether any corrupt or illegal practice has or has not been proved to have been committed by or with any candidate's knowledge and consent at the election, and the nature of such corrupt or illegal practice[3]; (2) whether

any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election[4]; (3) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice[5]; (4) whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the area of the authority for which the election was held or in any electoral area of it[6]. However, before any person who is neither a party to an election petition nor a candidate on whose behalf the seat or office is claimed by the petition is reported by an election court to have been guilty of any corrupt or illegal practice, the court must cause notice to be given to him, and, if he appears in pursuance of the notice, the court must give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported[7]. At the time of making its report, the election court may also make a special report as to any matters arising in the course of the trial, an account of which in the court's judgment ought to be submitted to the High Court[8].

A copy of any report made to the High Court by the election court trying a local election petition must be sent by the High Court to the Secretary of State[9]. The report of the election court must also be laid before the Director of Public Prosecutions[10].

1 As to the questioning of an election under the Local Government Act 1972 see para 760 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
2 Ie its certificate of determination on the local government election petition: see para 859 ante.
3 Representation of the People Act 1983 ss 145(3), 158(1). As to the consequences of a candidate being reported guilty of a corrupt or illegal practice see para 892 et seq post.
4 Ibid ss 145(3), 158(3).
5 Ibid ss 145(3), 160(1) (s 160(1) amended by the Representation of the People Act 1985 s 28(1), Sch 5).
6 Representation of the People Act 1983 s 145(3). For the meaning of 'electoral area' see para 10 ante. As to the meaning of 'extensively prevailed' see *Maidstone Borough Case, Cornwallis v Barker* (1901) 5 O'M & H 149 at 152–153.
7 Representation of the People Act 1983 s 160(1). See also the cases cited in para 857 notes 8–10 ante.
8 Ibid s 145(4).
9 Ibid s 145(5). As to the Secretary of State see para 2 ante.
10 Ibid s 160(3) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 52(b)). As to prosecutions by the Director of Public Prosecutions see para 880 post. As to the report's effect see also the cases cited in para 857 notes 14–16 ante.

C. WELSH ASSEMBLY ELECTION PETITION

861. Determination of Welsh Assembly election petition and subsequent procedures. At the conclusion of the trial of an Assembly election petition[1], the election court must determine whether any Assembly member[2] whose election or return is complained of (or any and what other person) was duly elected or returned[3] or, if applicable, whether the election was void[4]. Where, at a constituency election[5], the election court determines that at a constituency election an Assembly member was not duly elected or returned[6] or that the election was void[7], and where the return of the member at that election was taken into account for the purposes of deciding which members were to be returned for the Assembly electoral region[8] in which the Assembly constituency is situated[9], neither the determination by the election court[10] nor the subsequent return of an Assembly member for that constituency[11] affects the validity of the return of those members for that electoral region[12]. Where the election court determines that at a regional election[13] an Assembly member for an Assembly electoral region was not duly elected or returned, the court in addition must determine that the regional election was void[14]. If the judges constituting the election court differ as to whether any Assembly member whose election or return is complained of was duly elected or returned[15], they must certify that difference and the member is deemed to be duly elected or returned[16]. Where the petition relates to a constituency election, if the

judges determine that an Assembly member whose election or return is complained of was not duly elected or returned but differ as to the rest of the determination, they must certify that difference and the election is deemed to be void[17]. The election court must forthwith certify in writing the determination to the presiding officer of the Assembly[18]; and the presiding officer must publish any such certificate received by him in this way[19]. The determination so certified is final to all intents as to the matters at issue on the petition[20].

Where the election court so determines that a regional election was void, the presiding officer of the Assembly must forthwith after receipt of the certificate from the election court[21]: (1) fix a date, which must be no later than three months after receipt of the certificate, for a poll to be held at another election in the Assembly electoral region for which the regional election is determined to be void[22]; and (2) send a notice to the returning officer for the Assembly electoral region in which the election was held[23], stating that the election has been determined to be void[24], requiring that the election is held again for the purpose of returning the members for that Assembly electoral region[25], and stating the date fixed for the poll at the election[26]. The regional returning officer must, on receipt of notice under head (2) above, inform each constituency returning officer[27] for an Assembly constituency in the Assembly electoral region as to the contents of that notice[28]. The results of the constituency elections in the Assembly electoral region for which the election is held at the last ordinary election have effect for the purposes of ascertaining the results of the regional election[29].

1 As to Welsh Assembly election petitions see para 762 ante.
2 For the meaning of 'Assembly member' see para 12 ante.
3 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 98(1)(a).
4 Ibid art 98(1)(b).
5 For the meaning of 'constituency election' in the context of Welsh Assembly elections see para 3 note 1 ante.
6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 99(1)(a).
7 Ibid art 99(1)(b). Where a constituency election is deemed to be void by virtue of art 98(4)(b) (see the text and note 17 infra), the election court is treated as having determined that election to be void for the purposes of art 99(1)(b): art 99(2).
8 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.
9 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 99(1).
10 Ibid art 99(1)(i).
11 Ibid art 99(1)(ii).
12 Ibid art 99(1).
13 For the meaning of 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.
14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 98(2).
15 Ie subject to ibid art 98(2) (see the text and notes 13–14 supra).
16 Ibid art 98(4)(a).
17 Ibid art 98(4)(b).
18 Ibid art 98(3). As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
19 Ibid art 98(8).
20 Ibid art 98(1).
21 Ie under ibid art 98(3) (see the text and note 18 supra).
22 Ibid art 100(1)(a), (2). However, an election is not to be held if it appears to the presiding officer of the Assembly that the latest date which may be fixed for the poll would fall within the period of three months preceding an ordinary election: art 100(3). As to fixing the date of an ordinary Assembly election see para 220 ante.
23 Ibid art 100(1)(b). For the meaning of 'regional returning officer' see para 18 note 2 ante.
24 Ibid art 100(4)(a).
25 Ibid art 100(4)(b).
26 Ibid art 100(4)(c).
27 For the meaning of 'constituency returning officer' see para 18 note 2 ante.

28 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 100(5).
29 Ibid art 100(6).

862. Matters to be reported by court hearing Welsh Assembly election petition. Where a charge is made in a Welsh Assembly election petition[1] of any corrupt or illegal practice having been committed at the election in question, the election court must, in addition to giving a certificate[3] and at the same time, make a report to the presiding officer of the Assembly[4], stating: (1) whether any corrupt or illegal practice has or has not been proved to have been committed by or with any candidate's knowledge and consent at that election, and the nature of such corrupt or illegal practice[5]; (2) whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election[6]; (3) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice[7]; (4) whether corrupt or illegal practices have extensively prevailed at the election, or whether there is reason to believe that corrupt or illegal practices have so prevailed[8]. However, before any person who is neither a party to an election petition nor a candidate on whose behalf the seat or office is claimed by the petition is reported by an election court to have been guilty of any corrupt or illegal practice, the court must cause notice to be given to him, and, if he appears in pursuance of the notice, the court must give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported[9]. At the time of making its report, the election court may also make a special report to the presiding officer of the Assembly as to any matters arising in the course of the trial, an account of which in the court's judgment ought to be submitted to the Assembly[10].

Every report sent to the presiding officer of the Assembly must be signed by both judges of the election court and if the judges differ as to the subject of the report, they must certify that difference and make no report on the subject on which they so differ[11]. The presiding officer of the Assembly must publish any report of an election court so received by him[12] and the report also must be laid before the Director of Public Prosecutions[13].

1 As to Welsh Assembly election petitions see para 762 ante.
3 Ie a certificate of determination on the petition: see para 861 ante.
4 As to the presiding officer of the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.
5 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 98(5), 107(1). As to the consequences of a candidate being reported guilty of a corrupt or illegal practice see para 892 et seq post.
6 Ibid arts 98(5), 107(3).
7 Ibid arts 98(5), 109(1).
8 Ibid art 98(5).
9 Ibid art 109(1). See also the cases cited in para 857 notes 8–10 ante.
10 Ibid art 98(6).
11 Ibid art 98(7).
12 Ibid art 98(8).
13 Ibid art 109(2). As to prosecutions by the Director of Public Prosecutions see para 880 post. As to the report's effect see also the cases cited in para 857 notes 14–16 ante.

D. EUROPEAN PARLIAMENTARY ELECTION PETITION

863. Determination of European parliamentary election petition. At the conclusion of the trial of a European parliamentary election petition[1], the election court must determine whether: (1) the member or members whose election is complained of were duly elected[2]; (2) some other person or persons should have been declared to be elected[3]; or (3) the election of all members for that electoral region was void[4]. If the

judges constituting the election court differ as to any matter which they are required to determine, they must certify that difference and, to the extent that there is such a difference, the result of the election stands[5].

The election court must forthwith certify in writing the determination to the Secretary of State[6]; and the determination so certified is final to all intents as to the matters at issue on the petition[7].

1 As to European parliamentary election petitions see para 763 ante.
2 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 100(1)(a).
3 Ibid reg 100(1)(b).
4 Ibid reg 100(1)(c). As to the establishment of electoral regions for the purpose of elections to the European Parliament see para 76 ante.
5 Ibid reg 100(3).
6 Ibid reg 100(2). As to the Secretary of State see para 2 ante.
7 Ibid reg 100(1).

E. LOCAL AUTHORITY REFERENDUM PETITION

864. Determination of local authority referendum petition and subsequent procedures. At the conclusion of the trial of a petition questioning a local authority referendum[1], the election court must determine: (1) in the case of a petition presented on the ground that the result of the referendum was not in accordance with the votes cast[2], whether the result of the referendum was, or was not, in accordance with the votes cast in the referendum[3]; and (2) in the case of a petition presented on the ground that the referendum should be avoided either on account of corrupt or illegal practices[4] or on the grounds that corrupt or illegal practices or illegal payments, employments or hirings, committed with reference to the referendum for the purpose of promoting or procuring a particular result in the referendum have so extensively prevailed that they may be reasonably supposed to have affected the result[5], whether the referendum was void[6]. The election court must forthwith certify the determination in writing to the High Court[7]. A copy of any certificate made to the High Court must be sent by the High Court to the Secretary of State[8]; and the High Court must by the signatures of two or more of its judges certify such a copy of the certificate to the proper officer of the authority by which or in respect of which the referendum was held[9].

Where the election court makes such a determination under head (1) above, it must, as the circumstances require, either confirm the result of the referendum or reverse the result of the referendum[10]; and any reference (in whatever terms) in the timetable[11] to the date of the result of the referendum[12] must be construed as a reference to the date on which the election court certifies its determination[13].

Where an election court certifies, as its determination of a referendum petition specifying any of the grounds involving corrupt or illegal practices[14], that the referendum was avoided, the local authority concerned must hold another referendum, not earlier than two months and not later than three months after the election court has certified its determination in the matter of the referendum petition[15].

On the substantive hearing of a referendum petition for which leave has been granted for the presentation of a referendum petition at which the question asked related to proposals involving either a mayor and cabinet executive[16] or a mayor and council manager executive[17] and in which the majority of the votes cast were 'yes' votes, and after an election for the return of an elected mayor has taken place in consequence of the referendum[18], the election court must either dismiss the petition or allow the petition[19]. Where the court allows the petition, it must declare the referendum to be tainted, and order that a further referendum be held[20]. Where the court makes such an order, the local authority must hold the further referendum as soon as reasonably

practicable after the expiration of the period of five years beginning with the date on which the tainted referendum was held[21]. If the majority of the votes cast in a further referendum are 'yes' votes then, where the local authority is operating executive arrangements, it must continue to operate those arrangements unless and until it is authorised or required to operate different executive arrangements or authorised to operate alternative arrangements in place of its existing executive arrangements[22]. If the majority of the votes cast in a further referendum held in England are 'yes' votes then, where the authority is operating alternative arrangements, it must continue to operate those arrangements unless and until it is authorised to operate different alternative arrangements or authorised or required to operate executive arrangements in place of its existing alternative arrangements[23]. If the majority of the votes cast in the further referendum are 'no' votes, the local authority must implement the proposals that were its outline fall-back proposals[24] at the time of the tainted referendum[25]. The further referendum must be conducted in accordance with the provisions which regulate the conduct of local authority referendums generally, with minor modifications[26].

On the substantive hearing of a referendum petition for which leave has been granted on any other ground[27], the election court must either dismiss the petition or allow the petition[28]. Where the court allows the petition, it must declare the referendum avoided[29].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. The Representation of the People Act 1983 s 145(1) (as substituted) does not apply where a referendum petition has been presented with the leave of the High Court (see in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(3) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(3); and para 791 ante): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6; and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5.

2 Ie on the ground mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(a) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(a) (see para 764 ante).

3 Representation of the People Act 1983 s 145(1)(a) (s 145(1) substituted, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5).

4 Ie on the ground mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(b) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(b) (see para 764 ante). The text refers to such corrupt or illegal practices within the meaning of the Representation of the People Act 1983, as are relevant to referendums by virtue of, in relation to England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, regs 8, 19(8) and, in relation to Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, regs 8, 15(8) (see para 764 ante).

5 Ie on the grounds mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(c) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(c) (see para 764 ante). The text refers to the grounds provided by the Representation of the People Act 1983 164 (avoidance of election for corruption etc: see para 893 post), as applied for these purposes, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8) and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8) (see para 764 ante).

6 Representation of the People Act 1983 s 145(1)(b) (as substituted: see note 3 supra).

7 Ibid s 145(2); and see note 1 supra.

8 Ibid s 145(5); and see note 1 supra. As to the Secretary of State see para 2 ante.

9 Ibid s 145(6); and see note 1 supra. For the meaning of 'proper officer' see para 155 note 2 ante.

10 Ibid s 145(1A) (added, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(8), Sch 6; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(8), Sch 5).

11 Ie (1) (in relation to England only) the timetable included in the authority's proposals under the Local Government Act 2000 s 25 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 220); or (2) the timetable included in the proposals that are drawn up, in relation to England, under the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(3)(a) (see para 570 ante) or, as the case may be, reg 19(1)(c) (see para 573 ante) and, in relation to Wales, under the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(3)(a) (see para 570 ante) or, as the case may be, reg 19(1)(c) (see para 573 ante); or (3) (in relation to England only) the timetable prepared pursuant to the Local Government Act 2000 s 27(4) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222); or (4) the timetable included in the proposals, in relation to England, pursuant to the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000, SI 2000/2852, reg 17(7)(a)(ii) (see para 570 ante) or, as the case may be, reg 20(3)(a)(iii) (see para 573 ante) and, in relation to Wales, pursuant to the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, SI 2001/2292, reg 17(7)(a)(ii) (see para 570 ante) or, as the case may be, reg 20(3)(a)(iii) (see para 573 ante); or (5) the timetable prepared pursuant to any other regulations or an order made under any provision of the Local Government Act 1992 Pt II (ss 12–27) (as amended) (arrangements with respect to executives etc: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212 et seq).

12 Ie the result originally declared, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 18 and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 14 (see para 658 ante).

13 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(1); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(1).

14 Ie any of the grounds mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 19(1)(b)–(d) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 15(1)(b)–(d) (see para 764 ante).

15 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(2); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(2).

16 Ie if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 3, Sch 1 Pt I para 1 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 3, Sch 1 Pt I para 1 (see para 577 ante). For the meaning of 'mayor and cabinet executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.

17 Ie if the question was in the form set out, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, Sch 1 Pt I para 2 and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, Sch 1 Pt I para 2 (see para 577 ante). For the meaning of 'mayor and council manager executive' see LOCAL GOVERNMENT vol 29(1) (Reissue) para 212.

18 Ie where leave is granted in circumstances which are as mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20(4) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16(4) (see para 764 ante).

19 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(3).

20 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(3); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(3).

21 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(4); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(4). In the case of an order made in relation to England, this provision is subject to any arrangements which are made to combine the poll with that at another election or referendum (as to which see para 27 ante): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(4).

22 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(5)(a); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(5). For the meaning of 'existing executive arrangements' see para 563 note 10 ante. As to alternative arrangements see LOCAL GOVERNMENT vol 29(1) (Reissue) para 231.

23 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(5)(b).

24 For the meaning of 'outline fall-back proposals' in relation to England and Wales see para 576 note 8 ante.

25 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(6); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(6). In relation to England, the Local Government Act 2000 s 27(13) (referendum in case of proposals involving elected mayor: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222) applies to the implementation of detailed fall-back proposals as if those outline fall-back proposals were outline fall-back proposals in the event that proposals under s 25 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 220) are rejected in a referendum under s 27 (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 222): see the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(6). In relation to both England and Wales, where the authority's outline fall-back proposals are the executive or alternative arrangements which it was operating at the date of the tainted referendum, the Local Government Act 2000 s 27(13) applies as if, for 'in accordance with the timetable mentioned in s 27(4)' (see note 11 supra), there were substituted the words 'as soon as reasonably practicable': Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(7); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(7). Where the local authority's outline fall-back proposals are executive arrangements which involve a form of executive for which a referendum is not required, the Local Government Act 2000 s 29(1) (operation of, and publicity for, executive arrangements: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 218) applies for the purpose of enabling the local authority to operate the executive arrangements set out in its detailed fall-back proposals as it applies for the purpose of enabling a local authority to operate executive arrangements in other circumstances; and s 29(2) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 218) applies as if, for s 29(2)(b)(i), there were substituted the words 'states that, in consequence of the rejection in a further referendum of the local authority's existing executive arrangements, the local authority has resolved to operate the different executive arrangements that were described in its outline fall-back proposals at the time of the referendum': Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(8); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(8). In relation to Wales, where the local authority's outline fall-back proposals are alternative arrangements, the Local Government Act 2000 s 33(2) (operation of alternative arrangements: see LOCAL GOVERNMENT vol 29(1) (Reissue) para 233) applies for the purpose of enabling the local authority to operate the alternative arrangements set out in its detailed fall-back proposals as it applies for the purpose of enabling a local authority to operate alternative arrangements in other circumstances; and s 29(2) applies as if, for s 29(2)(b)(i) there were substituted the words 'states that, in consequence of the rejection in a further referendum of the local authority's existing executive arrangements the local authority has resolved to operate the alternative arrangements that were described in its outline fall-back proposals at the time of the referendum': Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(9).

26 See the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(9); and the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(10).

27 Ie where leave is granted in circumstances which are as mentioned, in relation to England, in the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 20 (other than reg 20(4)) and, in relation to Wales, in the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 16 (other than reg 16(4)) (see para 764 ante).

28 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(10); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(11).

29 Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 21(10); Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 17(11).

865. Matters to be reported by court hearing local authority referendum petition. Where a charge is made in a petition questioning a local authority referendum[1] of any corrupt or illegal practice having been committed at the referendum, the election court must, in addition to its certificate[2] and at the same time, make a report in writing to the High Court stating: (1) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice[3]; (2) whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the referendum in the area of the authority by which or in respect of which the referendum was held[4]. However, before any person who is not a party to a referendum petition is reported by an election court to have been guilty of any corrupt or illegal practice, the court must cause notice to be

given to him, and, if he appears in pursuance of the notice, the court must give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported[5]. At the time of making its report, the election court may also make a special report as to any matters arising in the course of the trial, an account of which in the court's judgment ought to be submitted to the High Court[6].

A copy of any report made to the High Court by the election court trying a local authority referendum must be sent by the High Court to the Secretary of State[7]. The report of the election court also must be laid before the Director of Public Prosecutions[8].

1 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante.
2 Ie its certificate of determination on the local authority referendum petition: see para 864 ante.
3 Representation of the People Act 1983 ss 145(3), 160(1) (s 160(1) amended by the Representation of the People Act 1985 s 28(1), Sch 5); and see note 1 supra.
4 Representation of the People Act 1983 s 145(3); and see note 1 supra. As to the meaning of 'extensively prevailed' see *Maidstone Borough Case, Cornwallis v Barker* (1901) 5 O'M & H 149 at 152–153.
5 Representation of the People Act 1983 s 160(1); and see note 1 supra. See also the cases cited in para 857 notes 8–10 ante.
6 Ibid s 145(4); and see note 1 supra.
7 Ibid s 145(5); and see note 1 supra. As to the Secretary of State see para 2 ante.
8 Ibid s 160(3) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 52(b)); and see note 1 supra. As to prosecutions by the Director of Public Prosecutions see para 880 post. As to the report's effect see also the cases cited in para 857 notes 14–16 ante.

F. REASONS; CONCLUSION OF PETITION

866. Grounds for judgment. On the hearing of election petitions it is the practice for the judges, in giving judgment, to give the reasons on which the judgment is founded[1].

1 *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70 at 71 per Denman J; *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 90. If the judges differ in their judgment upon the issue, it is the practice for the junior judge to give his judgment first: *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 178.

867. Conclusion of petition. When the election court has given its judgment and has sent the certificate of its determination, the petition is concluded, and is, therefore, no longer affected by any event which may happen during the time which intervenes between the moment the court has finally parted with the certificate and the moment it reaches the hands of the recipient, even if that event is one which, if it had happened earlier, would have caused the petition to abate or drop[1].

1 *Marshall v James* (1874) LR 9 CP 702.

(viii) Costs

868. Application of High Court principles with regard to costs. The rules of the Supreme Court with regard to costs to be allowed in actions, causes and matters in the High Court are in principle and so far as practicable to apply to the costs of election petitions and other proceedings under the relevant provisions[1]. The taxing master must not allow any costs higher than would be allowed in any action, cause or matter in the High Court on a common fund basis[2].

1 Representation of the People Act 1983 s 183(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 134(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(1). Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. As from a day to be appointed under the Constitutional Reform Act 2005 s 148(1), the reference in the Representation of the People Act 1983 s 183(1) to the Supreme Court is replaced by a reference to the Senior Courts: see s 183(1) (prospectively amended by the Constitutional Reform Act 2005 s 59(5), Sch 11 para 28(1), (3)(b)). At the date at which this volume states the law, no such day had been appointed.

The text refers to the costs of proceedings arising from the provisions contained, in relation to parliamentary and local government elections, in the Representation of the People Act 1983 Pt II (ss 67–119) (as amended) and Pt III (ss 120–186) (as amended), in relation to Welsh Assembly elections, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt III (arts 35–84) and Pt IV (arts 85–137) (as amended) and, in relation to European parliamentary elections, in the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 2 (regs 31–81) (as amended) and Pt 4 (regs 86–122) (as amended). As to costs of proceedings before the High Court see generally CPR Pts 43–48; and COSTS vol 10 (Reissue) para 15 et seq. As to European parliamentary elections held in the combined region see the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(4). As to the combined region see para 76 ante.

2 Representation of the People Act 1983 s 183(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 134(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(1); and see note 1 ante.

869. How costs are defrayed. All costs of and incidental to the presentation of an election or referendum petition[1] and the proceedings consequent on it, except such as are otherwise provided for[2], are to be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine[3]. In particular, any costs which in the court's opinion have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful[4].

Where a petition or notice is required to be published by the returning officer, the cost of publication must be paid in the first instance by the petitioner, or, as the case may be, by the person by whom the notice was given, without prejudice to the manner in which such cost must ultimately be borne by one or more of the parties to the petition[5].

If a petition is withdrawn the petitioner is liable to pay the respondent's costs[6].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983 (including those provisions as applied for the purposes of questioning a local authority referendum: see note 1 supra), in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) and, in relation to a European parliamentary election, the European Parliamentary Elections Regulations 2004, SI 2004/293.

3 Representation of the People Act 1983 s 154(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 103(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 104(1); and see note 1 supra.

It has been suggested that the discretion of the election court in dealing with costs is absolute and cannot be reviewed by the High Court: *Maidenhead Case, Lovering v Dawson (No 2)* (1875) LR 10 CP 726. But this view would no longer apply if the election court was subject to judicial review by the High Court; it is not settled whether the election court dealing with petitions under the Local Government Act 1972 is so subject: see para 777 note 3 ante. See also para 769 note 3 ante (election court dealing with parliamentary election petitions). As respects the local election court, the High Court has

jurisdiction to declare and order that its own taxing master should tax the costs in accordance with the formal order of the election court: *R v Cripps, ex p Muldoon* [1984] QB 686 at 698, [1984] 2 All ER 705 at 712, CA, per Sir John Donaldson MR.

4 Representation of the People Act 1983 s 154(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 103(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 104(2); and see note 1 supra. As to other provisions whereby neglect etc is penalised in costs see para 868 ante.

5 See the Election Petition Rules 1960, SI 1960/543, r 20 (including that provision as applied and modified); the European Parliamentary Election Petition Rules 1979, SI 1979/521, r 19; and para 782 note 10 ante. As to the returning officer's costs see para 876 post.

6 Representation of the People Act 1983 s 147(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 102(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 102(4); and see note 1 supra. As to the withdrawal of a petition see para 811 et seq ante.

870. General rule as to costs. The general rule is that costs follow the event[1], but the rule may be displaced by special circumstances[2], in which case the court will make a special order[3]. The practice is that if the petitioner is successful and is awarded costs the respondent will nevertheless be awarded costs in respect of charges in which the petitioner was not successful and which involved the respondent in extra expense. The practice used to be to leave the question as to what extra expense has been so caused to be decided by the taxing master, but this practice no longer obtains[4], and the court settles the question of what costs should be allowed[5].

1 *Bolton Case* (1874) 2 O'M & H 138; *Louth County Case* (1880) 3 O'M & H 161 at 177; *Oxford Borough Case* (1880) 3 O'M & H 155.

2 *Carrickfergus Borough Case* (1869) 1 O'M & H 264 at 268–269 per O'Brien J.

3 *Stroud Case, Holloway v Brand* (1874) 3 O'M & H 7 at 12 per Pigott B.

4 See *Bush v Rogers* [1915] 1 KB 707. The taxing master had discretion to disallow expenses which the registrar had ascertained to be reasonable: *McLaren v Home* (1881) 7 QBD 477, DC.

5 *Northumberland, Berwick-upon-Tweed Division Case* (1923) 7 O'M & H 1 at 46. In this case the court apportioned the costs on a fractional basis: *Northumberland, Berwick-upon-Tweed Division Case* supra at 47. As to detailed assessment see CPR Pt 47; and COSTS vol 10 (Reissue) para 151 et seq.

871. Grounds for special orders. There are many grounds of departure from the general rule that costs follow the event[1] on which the court, in its discretion, will award the bulk of costs to a party who has failed on a main issue, or make no order as to costs, or apportion the costs as to the court seems fit. These grounds include failure of the party on the case mainly and primarily relied on, even though he gains his object[2]; failure of a party on an important charge against the other party, even though he gains his object[3]; divided success on the main issues[4]; abandonment of a main issue by either side[5]; failure by a party on some of the charges alleged by him[6]; the success of a party on some charge or charges although he fails on the main issue[7]; the judges' disagreement on a main issue[8] or disagreement on some of the charges[9]; the fact that, although the petition fails, the court is of opinion that an inquiry was called for[10], or that it has been occasioned by the opposite party's conduct[11]; if there is a scrutiny, the fact that the party who has requested it, although he has not succeeded in establishing a majority of lawful votes, has reduced the number of the opposite party's votes to an equality[12]; the fact that, considering the small majority of votes polled proportionately to the number of voters, the prayer for a scrutiny was reasonable[13]; the fact that a party has made charges recklessly[14], or that his particulars are oppressive[15], or unnecessarily voluminous[16], or that he has not attempted[17] or has failed[18] to substantiate them; the blamable conduct of a party with regard to an election[19]; the fact that the petitioners are people of no means, against whom, if defeated, no costs could be recovered beyond those covered by the statutory security[20].

Where grounds for making some special order as to costs are afforded by the conduct of one of the parties, the court may still, if dissatisfied with the opposite party's conduct, decline to depart from the ordinary rule[21].

1 See para 870 ante.

2 *Plymouth Case* (1880) 3 O'M & H 107 at 112, where the court made no order; *Southampton Borough Case* (1895) 5 O'M & H 17 at 24–25, where, the election being avoided on the ground of an illegal payment and the petition failing on all other charges, the petitioners were allowed only such costs as would have been incurred had the petition been presented alone on the issue of that illegal payment, and the respondent was awarded the rest of the costs, with one exception (as to which see note 19 infra).

3 *Sandwich Case* (1880) 3 O'M & H 158 at 160, where, moreover, offences by the successful party having been proved, the court made no order.

4 *Stafford Borough Case* (1869) 21 LT 210 at 214, 1 O'M & H 228 at 234 per Blackburn J. In that case there were two petitions, but the court, as it stated, treated them as one.

5 *Horsham Case, Aldridge v Hurst* (1876) 3 O'M & H 52 at 56, where, the prayer for the seat and the recriminatory case respectively being abandoned, no order was made as to costs on these issues; *Gravesend Case* (1880) 3 O'M & H 81 at 82–84.

6 *Stroud Case, Holloway v Brand* (1874) 3 O'M & H 7, where the successful party was allowed no costs on such charges; *Lichfield Borough Case* (1880) 3 O'M & H 136 at 139–140.

7 *Bolton Case* (1874) 2 O'M & H 138 at 151; *Gloucestershire, Thornbury Division, Election Petition* (1886) 4 O'M & H 65 at 69, where a successful respondent was awarded no costs as to a charge of rioting and intimidation alleged in the petition, of which, although there was not enough evidence to avoid the election, there was, in the court's opinion, enough evidence to justify its being brought before the court.

8 *Down County Case* (1880) 3 O'M & H 115 at 129.

9 *Shoreditch, Haggerston Division Case, Cremer v Lowles* (1896) 5 O'M & H 68 at 88, where the respondent was awarded costs except on those issues as to which the judges differed, although they had differed on one issue which went to the validity of the election.

10 *Westminster Borough Case* (1869) 1 O'M & H 89 at 96 (no order made); *Guildford Case* (1869) 1 O'M & H 13 at 15 (no order made); *Warrington Case, Crozier v Rylands* (1869) 1 O'M & H 42 at 44 (no order made); *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 111 (no order made); *Stepney Division, Tower Hamlets Case* (1886) 4 O'M & H 34, 37 at 58 (where, although the petitioner failed, the scrutiny showing that 200 persons had voted who had no right to vote, no costs were allowed); *Salisbury Case, Moore v Kennard* (1883) 4 O'M & H 21 at 29–30; *Islington, West Division Case* (1901) 5 O'M & H 120 at 132 (where, on a certain part of the case which, in the court's opinion, it was fair to investigate, no order was made); *Cornwall, Bodmin Division Case* (1906) 5 O'M & H 225 at 235 (where the petitioners were awarded costs on charges which, in the court's opinion, they were justified in bringing forward, even though the judges disagreed on those charges).

11 *York County East Riding, Buckrose Division Case* (1886) 4 O'M & H 110 at 119 (where a recriminatory case was founded principally on charges of omissions by the petitioner in his return of election expenses, which were admitted; although the court granted the petitioner relief, he was ordered to pay the costs of the recriminatory case).

12 *Gloucester County, Cirencester Division Case* (1893) 4 O'M & H 194 at 199; but see *Oldham Case* (1869) 1 O'M & H 151 at 166.

13 *York County West Riding, Southern Division Case* (1869) 1 O'M & H 213 at 216 per Martin B.

14 *Youghal Borough Case* (1869) 1 O'M & H 291 at 295, 299 per O'Brien J, where the successful petitioner was, on this ground, not awarded the general costs; *Pontefract Case, Shaw v Reckitt* (1893) 4 O'M & H 200 at 201–202.

15 *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 91.

16 *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 92.

17 *Lichfield Borough Case* (1880) 3 O'M & H 136 at 140 (where the respondent was awarded the costs of such charges); *Chester City Case* (1880) 3 O'M & H 148 at 149; *Carrickfergus Borough Case* (1880) 3 O'M & H 90 at 93 (where the successful respondent was awarded no costs except on those charges, contained in particulars recklessly prepared by the petitioner, which the petitioner had not attempted to prove); *Canterbury Borough Case* (1880) 3 O'M & H 103 at 105 (where the successful petitioner was awarded no costs on personal charges against the respondent, which he had withdrawn at the hearing); *Ipswich Case, Packard v Collings and West* (1886) 4 O'M & H 70 at 75; *Cornwall, Bodmin Division Case* (1906) 5 O'M & H 225 at 235.

18 *Bewdley Case, Spencer v Harrison* (1880) 3 O'M & H 145 at 147 (where the petitioner was ordered to pay the costs of charges of treating, which he had failed to establish, but was awarded the costs of the charges of bribery, two of which he had proved); *Berwick-on-Tweed Case* (1880) 3 O'M & H 178 at 183 (where the respondent, although successful on the scrutiny which was the prayer of the petition, was awarded only two-thirds of the costs on the ground that several of the charges raised by him in his objections had

entirely failed); *Ipswich Case, Packard v Collings and West* (1886) 4 O'M & H 70 at 75; *Meath, Southern Division Case* (1892) 4 O'M & H 130 at 142 (where the seat was avoided on the ground of undue influence, but the respondent was awarded the costs of charges of bribery and corruption, which the petitioner had failed to prove); *Rochester Borough Case* (1892) 4 O'M & H 156 at 161; *Meath, Northern Division Case* (1892) 4 O'M & H 185 at 193.

19 *Carrickfergus Borough Case* (1880) 3 O'M & H 90 at 93 (following *Carrickfergus Borough Case* (1869) 1 O'M & H 264 at 268–269, and not following *Limerick Borough Case* (1869) 1 O'M & H 260 at 263, where Fitzgerald B stated that, according to parliamentary practice, unless the petition is held to be frivolous and vexatious, the petitioner cannot be ordered to pay the costs of it); *Windsor Case, Herbert v Gardiner* (1874) 2 O'M & H 88 at 93 (where the successful respondent was awarded no costs); *Dudley Case* (1874) 2 O'M & H 115 at 122 (where neither party was awarded any costs, on the ground that there had been blamable conduct on either side); *Londonderry Borough Case* (1869) 1 O'M & H 274 at 279–280 (where, on a scrutiny, time was spent in establishing the employment of certain voters by the respondent, he was disallowed the costs of the time so spent); *Southampton Borough Case* (1895) 5 O'M & H 17 at 24, where, in awarding costs to an unsuccessful respondent, the court excepted costs of evidence touching an indiscreet speech which respondent had made.

20 *Poole Case, Hurdle and Stark v Waring* (1874) 2 O'M & H 123 at 127–128; *Stepney Borough Case, Rushmere v Isaacson* (1892) 4 O'M & H 178 at 184; but see *Yellow v Meredith* (1903) 67 JP 111 (a municipal election petition), where the respondent was ordered to pay the costs, for although it was proved that the petitioners had not found any of the security it was not proved that they had not the means of paying the costs of the petition. Cf *Re Long Sutton School Board Election Petition* (1898) 62 JP 565.

21 *Evesham Case, Hartland v Lehmann* (1880) 3 O'M & H 192 at 195 per Grove J.

872. Disagreement over costs by judges on trial of petition. Where the judges trying a parliamentary election petition disagree as to the awarding of costs, no order is made as to them[1]. Where, however, the judges, although disagreeing on the issue as to the election being avoided or not, do not disagree as to all the charges made in the petition, they may award costs to the respondent on those charges on which they agree, making no order as to the others[2].

1 *Great Yarmouth Borough Case* (1906) 5 O'M & H 176 at 199. This principle would presumably also apply in the case of trying other election petitions: see para 815 ante. In *Down County Case* (1880) 3 O'M & H 115 at 129, where the judges disagreed as to avoidance of the election, they declined, on that ground, to make any order as to costs. See also *Ipswich Case, Packard v Collings and West* (1886) 4 O'M & H 70 at 75 per Denman J.

2 *Shoreditch, Haggerston Division Case, Cremer v Lowles* (1896) 5 O'M & H 68 at 88 (following *Montgomery Boroughs Case* (1892) 4 O'M & H 167 at 170).

873. Costs against person engaged in corrupt practices. On the trial of an election or referendum petition[1], where it appears to the election court that a corrupt practice[2] has not been proved to have been committed, in reference to the election or referendum, by or with the respondent's knowledge and consent, and that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf or in behalf of a particular result in a referendum, the election court may make an order with respect to the payment of the whole or part of the costs of the petition[3]. Accordingly, if it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices, in reference to the election or referendum, then, after giving such person or persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, the court may order the whole or part of the costs to be paid by such person or persons or any of them, and may order that, if the costs cannot be recovered from one or more of such persons, they are to be paid by some other of such persons or by either of the parties to the petition[4]. Where any person appears to the court to have been guilty of a corrupt or illegal practice[5], then, after giving that person an opportunity of making a statement to show why the order should not be made, the court may order the whole or any part of the costs of or incidental to

any proceeding before the court in relation to that offence or to that person to be paid by him to such person or persons as the court may direct[6].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; and as to Welsh Assembly election petitions see para 762 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
2 As to corrupt practices see generally para 707 et seq ante.
3 Representation of the People Act 1983 s 156(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 51); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 105(1); and see note 1 supra. There is no equivalent provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.
4 Representation of the People Act 1983 s 156(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 105(2); and see note 1 supra.
5 As to illegal practices see generally para 674 et seq ante.
6 Representation of the People Act 1983 s 156(6); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 105(3); and see note 1 supra.

874. Repayment of expenses of election court for local election or local authority referendum petition. The election court appointed for the trial of a petition questioning a local authority referendum or an election under the Local Government Act 1972[1] may, in its discretion, order that the remuneration and allowances payable to the commissioner in respect of the trial of an election petition, and to any officers, clerks or shorthand writers, or the expenses incurred by the proper officer of the authority in receiving the election court[2], be repaid wholly or in part to the Treasury or to the proper officer, as the case may be[3].

1 For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante.
2 As to these expenses see paras 775–776 ante.
3 See the Representation of the People Act 1983 s 133 (including those provisions as applied for the purposes of questioning a local authority referendum: see note 1 supra); and paras 775–776 ante. For the meaning of 'proper officer' see para 155 note 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517. As to the making of deposits or the giving of security for costs see paras 794–796 ante; and as to the recovery of costs see para 878 post.

875. Expenses of the Director of Public Prosecutions. The Director of Public Prosecutions and his assistant or representative are to be paid such allowances as the Treasury may approve for expenses for the purposes of legal proceedings relating to elections[1], other than his general duties of making inquiries into the commission of any offence[2] which he is informed has been committed and of instituting prosecutions which appear to be required[3]. The costs incurred in defraying the Director's expenses incurred for those purposes[4], including the remuneration of his representative, are, in the first instance, to be paid by the Treasury, and they are to be deemed to be expenses of the election court[5]. If, for any reasonable cause, the court thinks it just to do so it must, however, order all or part of those costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct[6].

1 Ie for the purposes of, in relation to parliamentary and local government elections, the Representation of the People Act 1983 Pt III (ss 120–186) (as amended), in relation to Welsh Assembly elections, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85–137) (as amended) and, in relation to European parliamentary elections, the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86–122) (as amended).

2 These general duties are specified, in relation to parliamentary and local government elections, in the Representation of the People Act 1983 s 181(1) (as amended), in relation to Welsh Assembly elections, in the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(1) and, in relation to European parliamentary elections, in the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(1) (see para 880 post).

3 Representation of the People Act 1983 s 181(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(4); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(4).

4 It is submitted that 'those purposes' refer to the purposes referred to in note 1 supra. This would include purposes in connection with relief (see para 693 ante) and the withdrawal of petitions (see para 811 ante), in addition to attendance at the trial of election petitions. The provision under which *Devonport Case, Pascoe v Puleston* (1886) 54 LT 733 and *Re Lichfield Case* (1892) 9 TLR 92 were decided was differently worded and, it is submitted, the decisions no longer apply.

5 Representation of the People Act 1983 s 181(6) (amended by the Representation of the People Act 1985 s 28(1), Sch 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(5). The previous practice which is apparent in the cases cited below has been for the court to refuse to make an order for the payment by a party to the petition of the Director's costs, even though an application for such an order is generally made. However, those cases were decided at a time when the Director was required to attend the trial of every election petition. That requirement no longer applies: see the amendment made by the Representation of the People Act 1985 s 24, Sch 4 para 63; and para 819 ante. In *Norwich Case, Birbeck v Bullard* (1886) 4 O'M & H 84 at 91–92, Denman J and Cave J stated that the court will not make an order for the payment of the Director's costs by a petitioner unless a strong case of misconduct is made out, even though the court considered his case to be so terribly overloaded with charges which he failed to prove that, though successful, he was not awarded costs; but see *Worcester Borough Case, Glaszard and Turner v Allsopp* (1892) 4 O'M & H 153 at 155 where the court made such an order against the petitioner, stating that the petition and particulars contained many charges which, if proved, would have justified the Director of Public Prosecutions in taking steps. Where, however, a petition is utterly unfounded the court will make the order: *Lambeth, Kennington Division Case* (1886) 4 O'M & H 93 at 95. Where, also, an election is declared void on the ground of bribery by an agent and the court is of the opinion that, although there has not been bad faith on the respondent's part, there has been much carelessness bringing about the result which has caused the election to be avoided, and the court has derived valuable assistance from the attendance of the Director of Public Prosecutions, it may think it right to make an order for the payment of his costs by the respondent on the ground that the respondent has occasioned them: *Northumberland, Hexham Division Case, Hudspeth and Lyal v Clayton* (1892) 4 O'M & H 143 at 152.

6 See note 5 supra.

876. Returning officer's costs. The general practice as to the costs of a returning officer who has been made a respondent to a petition[1] is that the election court exercises its discretion according to the nature of the reason for his having been made a respondent; he has no general immunity from liability to pay costs occasioned by his negligence in connection with an election[2]. Where the petition claims of an irregularity on the part of a returning officer, he may be ordered to pay the costs occasioned by the irregularity even though there may not have been any actual misconduct on his part[3], and in the same way he may be held liable in costs for his deputy's conduct[4]. Although irregularity affecting the result of the election may be proved against the returning officer by the petition, if he has not been made a party to the petition the court cannot order him to pay the costs of the petition[5]. The court may exercise its discretion by leaving the returning officer to bear his own costs[6].

1 As to respondents generally see paras 780, 789 ante.

2 *Wilson v Ingham* (1895) 64 LJQB 775, DC, per Day J (note that Wright J, the other member of the Divisional Court which decided the case, wished to express no opinion as to the class of cases or kind of misconduct for which a returning officer might be liable in costs).

3 *Re Ennis Case, O'Loughlin v Scanlan* [1900] 2 IR 384; *Islington, West Division Case* (1901) 5 O'M & H 120 at 132–134.

4 *Islington, West Division Case* (1901) 5 O'M & H 120. In *Rainham Parish Council Case* (1919) 83 JP 267, where the returning officer had appointed an experienced deputy who had made a mistake in the counting, the court ordered the deputy to pay costs and made no order against the returning officer.

5 *Re Long Sutton Board Election Petition* (1898) 62 JP 565 at 566 per Wright J.

6 *Haverfordwest Case, Davies v Lord Kensington* (1874) LR 9 CP 720, following *Hackney Case* (1874) 2 O'M & H 77 at 87; *Re Athlone Borough, Election Petition* (1874) IR 8 CL 240; *Drogheda Borough Case* (1874) 2 O'M & H 201 at 211; *Wigtown District Burgh Case* (1874) 2 O'M & H 215 at 230–231; *Clare, Eastern Division Case* (1892) 4 O'M & H 162 at 166.

877. Witnesses' expenses. The reasonable expenses incurred by any person in appearing to give evidence[1] at the trial of an election or referendum petition[2], according to the scale allowed to witnesses on the trial of civil actions[3], may be allowed to him by a certificate of the election court or of the prescribed officer[4].

Where witnesses are called and examined by the election court[5], their expenses are deemed part of the expenses of providing a court; otherwise they are deemed costs of the petition[6].

1 It would appear that these words are wide enough to include a witness who was summoned to attend but did not give evidence. It was assumed in *Trench v Nolan* (1873) IR 7 CL 445, and in *McLaren v Home* (1881) 7 QBD 477, DC, that the words were wide enough. Support for this view is also given by the wording of the provisions cited in para 878 post. On the other hand it was thought necessary in *King's Lynn Case, Flanders v Ingleby* (1911) 6 O'M & H 179, and in *Cheltenham Case, Smythies and Claridge v Mathias, Davies' Case* (1911) 6 O'M & H 194 at 227, for the election court to make a special order that the registrar should have the same discretion as the master to allow the costs of witnesses who had not actually been called on the ground that the Parliamentary Election Petition Rules (Additional Rules dated 27 January 1875) r 5 (revoked and not replaced by the Election Petition Rules 1960, SI 1960/543), did not give the registrar such power. In the latter case, Channell J said that the registrar was to be given the 'usual discretion'.

2 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

3 As to this scale see PRACTICE AND PROCEDURE vol 37 (Reissue) para 984.

4 Representation of the People Act 1983 s 143(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 97(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 99(1); and see note 2 supra. As to the certificate of the election court, in relation to a parliamentary election petition see para 856 ante; in relation to a local government election petition see para 859 ante; in relation to a Welsh Assembly election petition see para 861 ante; in relation to a European parliamentary election petition see para 863 ante; and in relation to a local authority referendum petition see para 864 ante. As to the prescribed officer see para 768 ante.

5 Ie by virtue of the Representation of the People Act 1983 s 140(2) (including that provision as applied for the purposes of questioning a Welsh Assembly election or local authority referendum), the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 95(2) or the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 97(2), as the case may be (see para 821 ante).

6 Representation of the People Act 1983 s 143(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 97(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 99(2); and see note 2 supra. This provision is for the protection of witnesses to enable them to recover their expenses from the party summoning them: *McLaren v Home* (1881) 7 QBD 477, DC. As to the recovery of costs see para 878 post. As to the expenses of providing an election court, in relation to a parliamentary, Welsh Assembly or European parliamentary election petition, see para 772 ante; and, in relation to a local government election petition or a local authority referendum petition, see paras 775–776 ante.

878. Recovery of costs. Where any costs or other sums, under the order of an election court or otherwise under the provisions which govern legal proceedings relating to elections and referendums[1], are to be paid by any person, those costs or sums are due from that person to the person or persons to whom they are to be paid; if payable to the Treasury, they are a debt due to Her Majesty[2]. In either case, they may be recovered accordingly[3].

If a petitioner neglects or refuses: (1) in the case of a parliamentary[4], Welsh Assembly[5] or European parliamentary election petition[6], for six months after demand[7]; and (2) in the case of a petition questioning a local authority referendum or an election under the Local Government Act 1972[8], for three months after demand[9], to pay to any person summoned as a witness[10] on his behalf or to the respondent any sum certified to be due to him for his costs[11], and the neglect or refusal is, within one year after the demand, proved to the High Court's satisfaction[12], every person who entered into a recognisance relating to the petition[13] is held to have made default in the recognisance and the prescribed officer[14] must thereupon certify the recognisance to be forfeited[15]. The recognisance is dealt with as if forfeited by the Crown Court[16].

1 Ie, in relation to parliamentary and local government elections, for the purposes of the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (including those provisions as applied for the purposes of questioning a local authority referendum: see note 8 infra), in relation to Welsh Assembly elections, for the purposes of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85–137) (as amended) and, in relation to European parliamentary elections, for the purposes of the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86–122) (as amended).

2 Representation of the People Act 1983 s 183(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 134(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(2); and see note 8 infra.

3 Representation of the People Act 1983 s 183(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 134(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 121(2); and see note 8 infra. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) paras 512–517.

4 As to parliamentary election petitions see para 759 ante.

5 As to Welsh Assembly election petitions see para 762 ante.

6 As to European parliamentary election petitions see para 763 ante.

7 Representation of the People Act 1983 s 155(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 104(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 105(1).

8 As to the questioning of an election in England and Wales under the Local Government Act 1972 see para 760 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante; and for the meaning of 'referendum' for these purposes see para 576 note 2 ante.

9 Representation of the People Act 1983 s 155(1)(b); and see note 8 supra.

10 As to the position where a witness is summoned but does not give evidence see para 877 note 1 ante.

11 The only costs of the respondent that are certified are those that have been assessed by the master. It would appear that the certified costs of a witness refer to his certified expenses (see para 877 ante) and not to certified costs of witnesses that have been assessed by the master.

12 Representation of the People Act 1983 s 155(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 104(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 105(1); and see note 8 supra.

13 As to recognisances see para 795 ante.

14 See para 768 ante.

15 Representation of the People Act 1983 s 155(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 104(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 105(2); and see note 8 supra.

16 Representation of the People Act 1983 s 155(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 104(2); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 105(2); and see note 8 supra. As to the powers and duties of the Crown Court in relation to forfeited recognisances see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) para 1683.

(ix) Appeals

879. Right of appeal. No appeal lies without the special leave of the High Court from the High Court's decision in the trial of any election or referendum petition[1] on any question of law, whether on appeal or otherwise, under the provisions which govern

legal proceedings relating to elections and referendums[2]. If leave to appeal is granted, the decision of the Court of Appeal in the case is final and conclusive[3].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 Representation of the People Act 1983 s 157(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(1); and see note 1 supra. The text refers, in relation to parliamentary and local government elections, to the provisions of the Representation of the People Act 1983 Pt III (ss 120–186) (as amended) (including those provisions as applied for the purposes of questioning a local authority referendum: see note 1 supra), in relation to Welsh Assembly elections, to the provisions of the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, Pt IV (arts 85–137) (as amended) and, in relation to European parliamentary elections, to the provisions of the European Parliamentary Elections Regulations 2004, SI 2004/293, Pt 4 (regs 86–122) (as amended).

The provision set out in the text applies whether the decision sought to be challenged is of a final or of an interim nature: *Everett v Griffiths (No 3)* [1923] 1 KB 138, CA.

As to application for mitigation and remission of incapacities see para 907 post.

3 Representation of the People Act 1983 s 157(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 106(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 106(1); and see note 1 supra. See also *McHarg v Universal Stock Exchange* [1895] 2 QB 81 at 83; *Wynne-Finch v Chaytor* [1903] 2 Ch 475 at 485, CA; *Unwin v McMullen* [1891] 1 QB 694 at 699, CA; *Shaw v Reckitt (Pontefract Election Petition)* [1893] 2 QB 59, CA.

(4) PUNISHMENT OF OFFENCES

(i) In general

880. Duty of the Director of Public Prosecutions in relation to offences. Where information is given to the Director of Public Prosecutions that any offence has been committed under the provisions which govern the conduct of elections or referendums[1], it is his duty to make such inquiries and institute such prosecutions as the circumstances appear to him to require[2].

1 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983 or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see para 388 ante) or, in relation to a European parliamentary election, the European Parliamentary elections rules or, in relation to local authority referendums in England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, or, in relation to local authority referendums in Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'European parliamentary elections rules' see para 388 ante. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

The Representation of the People Act 1985 s 12 (offences as to declarations etc: see para 738 ante) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1–66A) (as amended): Representation of the People Act 1985 s 27(2).

2 Representation of the People Act 1983 s 181(1) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 63); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 132(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 119(1). In the application of reg 119(1) to elections that have taken place in the combined region (as to which see para 76 ante), the reference to the Director of Public Prosecutions is to be construed as a reference to the Attorney General for Gibraltar: reg 119(7). The Representation of the People Act 1983 s 181(1) (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

881. General time limits relating to punishment of offences. A proceeding against a person in respect of any offence under any provision contained in or made under the provisions which govern the conduct of elections or referendums[1] must be commenced[2] within one year after the offence was committed[3].

In the case of summary proceedings[4] for any such offence, this time limit is substituted for the general time limit that usually applies[5] for the trial of offences summarily[6]. However, in relation to the prosecution of offences under any provision contained in or made under the Representation of the People Act 1983, a magistrates' court may extend the time within which proceedings must be commenced to not more than 24 months after the offence was committed[7]. The court may so act only if it is satisfied on an application by a constable or Crown prosecutor that there are exceptional circumstances which justify the granting of the application[8] and that there has been no undue delay in the investigation of the offence to which the application relates[9]. If the magistrates' court so acts, it may also make an order directing the relevant registration officer[10] not to cause the documents retained by him to be destroyed at the expiry of the period of one year[11] and extending the period for which he is required to retain them[12] by such further period not exceeding 12 months as is specified in the order[13]. Such an order may be made by the magistrates' court if it is satisfied, on an application by a constable or Crown prosecutor, that documents retained by the relevant registration officer[14] may provide evidence relating to the offence[15]. An application for an extension of time either in relation to the commencement of proceedings[16] or in relation to the period for which election documents are required to be retained[17] must be made not more than one year after the offence was committed[18]. Any party to such an application who is aggrieved by the refusal of the magistrates' court to extend the time within which proceedings must be commenced[19] or to make an order extending the period for which election documents are required to be retained[20] (as the case may be) may appeal to the Crown Court[21].

1 Ie, in relation to a parliamentary or local government election, the Representation of the People Act 1983 or, in relation to a Welsh Assembly election, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see para 388 ante) or, in relation to a European parliamentary election, the European parliamentary elections rules or, in relation to local authority referendums in England, the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, or, in relation to local authority referendums in Wales, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'European parliamentary elections rules' see para 388 ante. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

The Representation of the People Act 1985 s 12 (offences as to declarations etc: see para 738 ante) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1–66A) (as amended): Representation of the People Act 1985 s 27(2).

2 For these purposes, the laying of an information is deemed to be the commencement of a proceeding: Representation of the People Act 1983 s 176(2)(a) (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 61); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 127(2)(a); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 114(2)(a). The Representation of the People Act 1983 s 176 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

3 Representation of the People Act 1983 s 176(1) (amended by the Representation of the People Act 1985 s 28, Sch 4 para 61, Sch 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 127(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 114(1); and see note 2 supra.

4 Ie proceedings under the Magistrates' Courts Act 1980.

5 Ie the limit of six months set by ibid s 127(1) (limitation of time: see MAGISTRATES vol 29(2) (Reissue) para 589).

6 Representation of the People Act 1983 s 176(1) (as amended: see note 3 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 127(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 114(1); and see note 2 supra.
7 Representation of the People Act 1983 s 176(2B) (s 176(2A)–(2G) added by the Electoral Administration Act 2006 s 70(1)).
8 Representation of the People Act 1983 s 176(2A)(a) (as added: see note 7 supra).
9 Ibid s 176(2A)(b) (as added: see note 7 supra).
10 For the meaning of references to the relevant registration officer for these purposes see para 494 note 3 ante.
11 Representation of the People Act 1983 s 176(2D)(a) (as added: see note 7 supra). The text refers to the period of one year mentioned in s 23(1), Sch 1 r 57 (as amended) (retention and inspection of documents relating to parliamentary elections: see para 503 ante). The making of an order under s 176(2D) (as added) does not affect any other power to require the retention of the documents: s 176(2E) (as so added).
12 Ie under ibid Sch 1 r 57 (as amended) (see para 503 ante). See also note 11 supra.
13 Ibid s 176(2D)(b) (as added: see note 7 supra). See also note 11 supra.
14 Ie in pursuance of ibid Sch 1 r 57 (as amended) (see para 503 ante).
15 Ibid s 176(2C) (as added: see note 7 supra).
16 Ie an application under ibid s 176(2A) (as added) (see the text and notes 8–9 supra).
17 Ie an application under ibid s 176(2C) (as added) (see the text and notes 14–15 supra).
18 Ibid s 176(2F) (as added: see note 7 supra).
19 Ie an application under ibid s 176(2B) (as added) (see the text and note 7 supra).
20 Ie an application under ibid s 176(2D) (as added) (see the text and notes 10–13 supra).
21 Ibid s 176(2G) (as added: see note 7 supra).

882. Prosecution of local election and local authority referendum offences punishable summarily. A prosecution for any offence punishable summarily committed in reference to an election under the Local Government Act 1972[1] may be instituted before any magistrates' court in the county in which the local government area[2] for which the election was held is situate or to which it adjoins, and the offence is deemed for all purposes to have been committed within that court's jurisdiction[3].

A prosecution for any offence punishable summarily committed in reference to a local authority referendum[4] may be instituted before any magistrates' court for the voting area[5] in which the offence is alleged to have been committed, and the offence is deemed for all purposes to have been committed within that court's jurisdiction[6].

1 For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
2 For the meaning of 'local government area' see para 18 note 2 ante.
3 Representation of the People Act 1983 s 177(1) (renumbered by the Local Government (Wales) Act 1994 s 1(3), Sch 2 para 12(1)).
4 Ie, in relation to local authority referendums in England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to local authority referendums in Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.
5 For the meaning of 'voting area' see para 582 note 2 ante.
6 Representation of the People Act 1983 s 177(1) (as renumbered: see note 3 supra). Section 177 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

883. Offences committed outside the United Kingdom. Proceedings in respect of an offence under the provisions which govern the conduct of elections or referendums[1] which is alleged to have been committed outside the United Kingdom[2]: (1) in relation to the Representation of the People Act 1983, by a Commonwealth citizen[3] or citizen of the Republic of Ireland[4]; (2) in relation to a Welsh Assembly election, by a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union[5]; or (3) in relation to a European parliamentary election, by a

Commonwealth citizen or citizen of the Union[6], may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom[7].

1 Ie, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see para 388 ante) or, in relation to a European parliamentary election, under the European parliamentary elections rules or, in relation to local authority referendums in England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, SI 2001/1298, or, in relation to local authority referendums in Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'European parliamentary elections rules' see para 388 ante. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

The Representation of the People Act 1985 s 12 (offences as to declarations etc: see para 738 ante) has effect as if contained in the Representation of the People Act 1983 Pt I (ss 1–66A) (as amended): Representation of the People Act 1985 s 27(2).

2 For the meaning of 'United Kingdom' see para 13 note 1 ante.

3 As to who are Commonwealth citizens see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 11.

4 See the Representation of the People Act 1983 s 178 (as substituted). The reference to the Representation of the People Act 1983 includes that Act as it is applied and modified for the purposes of local authority referendums (see note 7 infra). As to who are citizens of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM vol 4(2) (2002 Reissue) para 12.

5 See the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 128. For the meaning of 'relevant citizen of the Union' for these purposes see para 162 note 16 ante.

6 See the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 115. For the meaning of 'citizen of the Union' for these purposes see para 159 note 6 ante.

7 Representation of the People Act 1983 s 178 (substituted by the Representation of the People Act 1985 s 24, Sch 4 para 62); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 128; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 115. The Representation of the People Act 1983 s 178 (as substituted) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

The provision set out in the text would appear to apply to offences committed within the United Kingdom by any person irrespective of nationality and to offences committed outside the jurisdiction by those specified. In addition to the offence set out in relation to overseas elector's declarations in the Representation of the People Act 1985 s 12 (see note 1 supra), the offence described in para 336 ante (broadcasting from outside United Kingdom with intent to influence elections) may be especially relevant in this context.

884. Evidence by certificate of holding of election or referendum and of electoral registration. On any prosecution for a corrupt[1] or illegal practice[2], or for any illegal payment, employment or hiring[3], and (except in relation to a European parliamentary election) on any proceedings for a penalty for sitting or voting after failure to deliver the return and declarations as to election expenses[4], the returning officer's certificate that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election is sufficient evidence of the facts stated in it[5].

On any prosecution for a corrupt or illegal practice, or for any illegal payment, employment or hiring, the counting officer's certificate that the referendum mentioned in the certificate was duly held is sufficient evidence of the facts stated in it[6].

The certificate of a registration officer that any person is or is not, or was or was not at any particular time, duly registered in one of the officer's registers in respect of any address is sufficient evidence of the facts stated in it; and a document purporting to be such a certificate must be received in evidence and is presumed to be such a certificate unless the contrary is proved[7].

1 As to corrupt practices see generally para 707 et seq ante; and as to the punishment of corrupt practices see para 885 et seq post.
2 As to illegal practices see generally para 674 et seq ante; and as to the punishment of illegal practices see para 886 et seq post.
3 As to the circumstances in which relief is available see para 690 et seq ante; and as to the consequences of illegal payment, employment or hiring see para 887 post.
4 As to the financial penalty imposed for sitting or voting in office where no financial returns or declarations are transmitted see para 758 ante.
5 Representation of the People Act 1983 s 180; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 130; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 117. In relation to a European parliamentary election, the returning officer may certify also that a registered party named in the certificate submitted a list at the election: reg 117. For the meanings of 'list' and 'registered party' in relation to European parliamentary elections see para 237 note 30 ante; and for the meaning of 'individual candidate' in relation to such elections see para 237 note 32 ante. The court has taken judicial notice of the holding of a general parliamentary election: *Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97.
6 Representation of the People Act 1983 s 180 (applied and modified, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2; and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2).
7 Representation of the People Act 1983 s 180A (added by the Representation of the People Act 2000 s 8, Sch 1 paras 1, 20); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 131; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 118.

(ii) Punishment of Corrupt, Illegal Practices, etc

885. Punishment of corrupt practices. A person who is guilty of a corrupt practice is liable on conviction on indictment[1] to a penalty, the nature of which depends on whether it is a case of committing (or aiding, abetting, counselling or procuring the commission of) the offence of personation[2] or an offence at a parliamentary or local government election relating to an application for a postal or proxy vote[3], or whether it is a case of any other corrupt practice[4]. On summary conviction, a person who is guilty of a corrupt practice is also liable to a penalty[5].

If the circumstances warrant such a finding, any person charged with a corrupt practice may be found guilty of an illegal practice (which is for that purpose to be an indictable offence)[6].

1 Representation of the People Act 1983 s 168(1) (s 168(1) substituted by the Representation of the People Act 1985 s 23, Sch 3 para 8); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1). As to elections in the City of London see para 30 ante. As to corrupt practices see generally para 707 et seq ante; and as to the striking off of a vote of a person found guilty of a corrupt practice see para 841 ante.

The Representation of the People Act 1983 s 168 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Representation of the People Act 1983 s 168(1)(a)(i) (as substituted (see note 1 supra); and amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 121); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(a)(i); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(a)(i); and see note 1 supra. The text refers to an offence, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 s 60 and, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 28 and, in relation to a European parliamentary election, under the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 23 (see para 733 ante). The penalty is imprisonment for a term not exceeding two years or a fine, or both: see the Representation of the People Act 1983 s 168(1)(a)(i) (as so substituted and amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(a)(i); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(a)(i); and see note

1 supra. In *R v Brindley* [1997] 2 Cr App Rep (S) 353, CA, an offence of personation which was planned and persisted in over a number of days drew a custodial sentence of eight months, one element of which was to serve as a deterrent to those who would interfere with the electoral process, being conduct which was held to be analogous to interference with the course of justice.

3 Representation of the People Act 1983 s 168(1)(a)(i) (as substituted and amended: see note 2 supra). The text refers to an offence under s 62A (as added) (see para 734 ante). The penalty is imprisonment for a term not exceeding two years or a fine, or both: see s 168(1)(a)(i) (as so substituted and amended). In *R v Hussain* [2005] EWCA Crim 1866, [2006] 1 Cr App Rep (S) 336, a case which pre-dated the offence under the Representation of the People Act 1983 s 62A (as added), a concerted course of action whereby incomplete documents for postal voting in a local election were obtained by deception and completed by, or on behalf of the defendant, had attracted a sentence of three years and seven months' imprisonment on conviction of a charge of conspiracy to defraud; in upholding the sentence, the Court of Appeal approved the deterrent element, having regard to the nature of the offence, and stressed the courts' responsibility in a democratic society to protect the country's electoral system from corruption or fraud, which in the instant case was said to have more dangerous consequences than those which sought to undermine the administration of justice.

4 Representation of the People Act 1983 s 168(1)(a)(ii) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(a)(ii); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(a)(ii); and see note 1 supra. The penalty is imprisonment for a term not exceeding one year or a fine or both: see the Representation of the People Act 1983 s 168(1)(a)(ii) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(a)(ii); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(a)(ii); and see note 1 supra.

5 Representation of the People Act 1983 s 168(1)(b) (as substituted: see note 1 supra); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(b); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(b); and see note 1 supra. The penalty is imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both: see the Representation of the People Act 1983 s 168(1)(b) (as so substituted); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 119(1)(b); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 109(1)(b); and see note 1 supra. As to the statutory maximum see para 741 note 15 ante.

6 Representation of the People Act 1983 s 170; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 121; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 111; and see note 1 supra. As to the punishment of illegal practices see para 886 post.

886. Punishment of illegal practices. A person guilty of an illegal practice[1] is on summary conviction liable to a penalty[2]. A person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice[3].

1 As to illegal practices see generally para 674 et seq ante.

2 Representation of the People Act 1983 s 169 (amended by the Representation of the People Act 1985 s 23, Sch 3 para 9); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 120; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 110. The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People Act 1983 s 169 (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 120; and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 110. As to the standard scale see para 736 note 3 ante. As to the drafting of such a charge see para 888 post. As to striking off the vote of a person found guilty of an illegal practice see para 841 ante.

The Representation of the People Act 1983 s 169 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. As to elections in the City of London see para 30 ante.

3 Representation of the People Act 1983 s 170; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 art 121; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 111. As to the punishment of corrupt practices see para 885 ante.

The Representation of the People Act 1983 s 170 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums)

(England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

887. Punishment of illegal payments or employments. A person guilty of an offence of illegal payment or employment[1] is liable, on summary conviction, to a penalty[2]; and any person charged with an offence of illegal payment or employment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice[3].

1 See para 685 et seq ante.

2 Representation of the People Act 1983 s 175(1) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 10; and the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(1). The penalty is a fine not exceeding level 5 on the standard scale: see the Representation of the People Act 1983 s 175(1) (as so amended); the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(1); and the European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(1). As to the standard scale see para 736 note 3 ante. As to the drafting of such a charge see para 888 post.

The Representation of the People Act 1983 s 175(1), (3) (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

3 Representation of the People Act 1983 s 175(3) (amended by the Political Parties, Elections and Referendums Act 2000 Sch 21 para 6(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(3); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(3); and see note 2 supra.

888. Drafting of charges on prosecution for corrupt or illegal practice or for illegal payments or employments. On a prosecution for an illegal practice[1] it is sufficient to allege that the person charged was guilty of an illegal practice[2]. There is no similar provision in relation to corrupt practices[3] and it would appear necessary, therefore, for the charge to state the particular corrupt practice of which the person is alleged to have been guilty[4]. It is not essential that the date of the election should be stated[5].

On a prosecution for an offence of illegal payment or employment[6] it is sufficient to allege that the person charged was guilty of an illegal payment or employment, as the case may be[7].

1 As to illegal practices see generally para 674 et seq ante.

2 Representation of the People Act 1983 s 169; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 120; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 110. Corrupt and illegal practices may be cited in European parliamentary election petitions only when they are related to personation and other voting offences: see para 763 ante.

3 As to corrupt practices see generally para 707 et seq ante.

4 *R v Stroulger* (1886) 17 QBD 327; *R v Norton* (1886) 16 Cox CC 59.

5 *R v Yeoman* (1904) 20 TLR 266.

6 As to the offence of illegal payment or employment see para 685 ante.

7 Representation of the People Act 1983 s 175(1) (amended by the Representation of the People Act 1985 s 23, Sch 3 para 10; and the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21 para 6(1), (6)); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 126(1); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 113(1).

889. Offences, corrupt or illegal practices etc committed by associations. Where any corrupt[1] or illegal practice[2] or any illegal payment, employment or hiring[3] or any offence of not having the name and address of the printer and publisher on election documents[4] is committed by any association or body of persons, corporate or

unincorporate, the members of the association or body who have taken part in the commission of the offence are liable to any fine or punishment[5] imposed for that offence under the provisions which govern the conduct of elections or referendums[6].

1 As to corrupt practices see generally para 707 et seq ante.
2 As to illegal practices see generally para 674 et seq ante.
3 As to the offence of illegal payment or employment see para 685 ante.
4 As to this offence see para 751 ante.
5 This would appear to mean any fine or imprisonment but not to include any incapacities to which an individual might be liable for the offence of which the corporation is guilty.
6 Representation of the People Act 1983 s 179; National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 129; European Parliamentary Elections Regulations 2004, SI 2004/293, reg 116. The Representation of the People Act 1983 s 179 has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. The text refers to offences, in relation to a parliamentary or local government election, under the Representation of the People Act 1983 (and including that Act as it is applied and modified for the purposes of local authority referendums) or, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see para 388 ante) or, in relation to a European parliamentary election, under the European parliamentary elections rules. For the meaning of 'European parliamentary elections rules' see para 388 ante. As to elections in the City of London see para 30 ante.

(iii) Punishment of Offences under the Political Parties, Elections and Referendums Act 2000

890. Summary proceedings for offences under the Political Parties, Elections and Referendums Act 2000. Summary proceedings for any offence under the Political Parties, Elections and Referendums Act 2000[1] may, without prejudice to any jurisdiction otherwise exercisable[2], be taken against any body, including an unincorporated association, at any place at which it has a place of business, and against an individual at any place at which he is for the time being[3]. Despite the general time limit that usually applies[5] for the trial of offences summarily, any information relating to an offence under the Political Parties, Elections and Referendums Act 2000 which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within three years after the commission of the offence and within six months after the relevant date[5].

1 As to offences generally see para 735 et seq ante.
2 Ie exercisable apart from the Political Parties, Elections and Referendums Act 2000 s 151(1).
3 Ibid s 151(1).
4 Ie despite anything in the Magistrates' Courts Act 1980 s 127(1) (limitation of time: see MAGISTRATES vol 29(2) (Reissue) para 589).
5 Political Parties, Elections and Referendums Act 2000 s 151(2). For these purposes, the 'relevant date' means the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to his knowledge (s 151(5)); and a certificate of any prosecutor as to the date on which such evidence as is there mentioned came to his knowledge is conclusive evidence of that fact (s 151(6)). As to offences relating to a European parliamentary election held in the combined region (as to which see para 76 ante) which are triable by a magistrates' court in Gibraltar see s 151(4A) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 29).

891. Offences committed by bodies corporate or unincorporated associations. Where an offence under the Political Parties, Elections and Referendums Act 2000[1] committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on

the part of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly[2].

Proceedings for an offence alleged to have been committed under the Political Parties, Elections and Referendums Act 2000 by an unincorporated association is to be brought against the association in its own name (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if the association were a corporation[3]. A fine imposed on an unincorporated association on its conviction of such an offence must be paid out of the funds of the association[4]. The statutory provisions which deal with the procedure on charges of offences against corporations[5] have effect in a case in which an unincorporated association is charged in England or Wales with an offence under the Political Parties, Elections and Referendums Act 2000 in like manner as they have effect in the case of a corporation so charged[6].

Where a partnership is guilty of an offence under the Political Parties, Elections and Referendums Act 2000 and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any partner, he as well as the partnership is guilty of that offence and is liable to be proceeded against and punished accordingly[7].

Where any other unincorporated association is guilty of an offence under the Political Parties, Elections and Referendums Act 2000 and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any officer of the association or any member of the committee or other similar governing body of the association, he, as well as the association, is guilty of that offence and is liable to be proceeded against and punished accordingly[8].

1 As to offences generally see para 735 et seq ante.
2 Political Parties, Elections and Referendums Act 2000 s 152(1). Where the affairs of a body corporate are managed by its members, s 152(1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate: s 152(2).
3 Ibid s 153(1).
4 Ibid s 153(2).
5 Ie the Criminal Justice Act 1925 s 33 (as amended) and the Magistrates' Courts Act 1980 s 46, Sch 3 (as amended): see MAGISTRATES vol 29(2) (Reissue) para 666.
6 Political Parties, Elections and Referendums Act 2000 s 153(3). As to the procedure where an unincorporated association is charged in Gibraltar with an offence relating to a European parliamentary election held in the combined region (as to which see para 76 ante) see s 153(5A) (added by the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004, SI 2004/366, art 4(2), Schedule paras 1, 30).
7 Political Parties, Elections and Referendums Act 2000 s 153(6).
8 Ibid s 153(7).

(5) CONSEQUENCES OF LEGAL PROCEEDINGS

(i) Avoidance of Election or Referendum

892. Avoidance of election of candidate reported guilty of corrupt or illegal practice. If a candidate who has been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice[1], his election is void[2].

1 As to when a candidate is to be treated as having been reported personally guilty or guilty by his agents see para 899 post.
2 Representation of the People Act 1983 s 159(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 108. There is no provision in relation to European parliamentary

elections because corrupt and illegal practices relate only to personation and other voting offences in that context: see para 763 ante. As to elections in the City of London see para 30 ante.

893. Avoidance of election by reason of general corruption, bribery, treating or intimidation. Where, on an election petition[1], it is shown that corrupt[2] or illegal practices[3] or illegal payments, employments or hirings[4] committed in reference to the election for the purpose of promoting or procuring the election of any person have so extensively prevailed that they may be reasonably supposed to have affected the result, the election of that person, if he has been elected, is void, and he is incapable of being elected to fill the vacancy or any of the vacancies for which the election was held[5]. An election under the Local Government Act 1972[6] may be questioned on the ground that it is avoided under this provision[7]. An election is not liable to be avoided, otherwise than under this provision, by reason of general corruption, bribery, treating or intimidation[8].

1 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; and as to Welsh Assembly election petitions see para 762 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. There is no provision for the purposes of European parliamentary election petitions because corrupt and illegal practices may be cited in such petitions only when they are related to personation and other voting offences: see para 763 ante.

2 As to corrupt practices see generally para 707 et seq ante.

3 As to illegal practices see generally para 674 et seq ante.

4 As to the offence of illegal payment, employment or hiring see para 685 ante.

5 Representation of the People Act 1983 s 164(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 115(1). As to elections in the City of London see para 30 ante. Where, on a Welsh Assembly election petition, it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed have prevailed in relation to a regional election for the purpose of promoting or procuring the giving of votes for a registered political party at the election, such acts, for the purposes of art 115(1), are treated as having prevailed for the purpose of promoting or procuring the election of each candidate on that party's list: art 115(2). For the meaning of 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'registered political party' for these purposes see para 263 ante; and for the meaning of 'party list candidate' in relation to a Welsh Assembly election see para 237 note 23 ante As to evidence given by certificate when the matters set out in the text are prosecuted see para 884 ante.

6 As to elections under the Local Government Act 1972 see para 11 ante.

7 Representation of the People Act 1983 s 164(3). See *Akhtar v Jahan, Iqbal v Islam* [2005] All ER (D) 15 (Apr), in which the elections for two wards were declared void on the grounds of widespread corrupt and illegal practices under the Representation of the People Act 1983 s 164 (as well as on the grounds of corrupt and illegal practices by the successful candidates), the Commissioner having found on the evidence that: (1) fraudulent applications for postal votes were made and electors' names improperly entered without their knowledge or consent on the absent voters' list; (2) unused ballot packages were improperly diverted by a wide variety of means; (3) the improperly diverted ballot packages were fraudulently used by completing the ballot papers and declarations of identity (now the postal voting statement) and despatching them to the Elections Office; (4) completed ballot packages were improperly diverted; and (5) improperly diverted ballot packages were opened and the contents fraudulently altered. On appeal, the finding against one councillor was quashed on evidential grounds but the other findings of personal corruption and general corruption were not affected: see *R (on the application of Afzal) v Election Court* [2005] EWCA Civ 647, [2005] LGR 823.

8 Representation of the People Act 1983 s 164(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 115(3). The provision set out in the text supersedes the common law by which an election might be avoided for general bribery or treating in favour of the successful candidate or general intimidation, whether or not the successful candidate or his agents were responsible for the bribery, treating or intimidation: *Bradford Case (No 2)* (1869) 19 LT 723, 1 O'M & H 35; and see e g *Beverley Case* (1869) 20 LT 792, 1 O'M & H 143; *Lichfield Case, Anson v Dyott* (1869) 20 LT 11 at 14, 1 O'M & H 22 at 26; *Guildford Case* (1869) 19 LT 729 at 731, 1 O'M & H 13 at 14–15; *Bridgewater Case* (1869) 1 O'M & H 112 at 115 (bribery); *Ipswich Case, Packard v Collings and West* (1886) 54 LT 619, 4 O'M & H 70 (bribery and treating); *Tamworth Case, Hill and Walter v Peel and Bulwer* (1869) 20 LT 181, 1 O'M & H 75; *Pontefract Case, Shaw v Reckitt* (1893) 4 O'M & H 200 at 201, Day 125 at 129 (treating); *Drogheda Borough Case* (1869) 21 LT 402, 1 O'M & H 252; *Stafford Borough Case* (1869) 21 LT 210 at 211, 1 O'M & H 228 at 229; *Staleybridge Case, Ogden, Woolley and Buckley v Sidebottom* (1869) 20 LT 75 at 78, 1 O'M & H 66 at 72; *Dudley Case* (1874) 2 O'M & H 115; *Durham County, Northern Division Case*

(No 2) (1874) 2 O'M & H 152; *Re Gloucestershire, Thornbury Division, Election Petition* (1886) 4 O'M & H 65 at 67; *South Meath Case* (1892) Day 132 at 140; *East Kerry Case* (1910) 6 O'M & H 58 (intimidation); *Hartlepools Case* (1910) 6 O'M & H 1 at 8. The provision does not refer to general personation, and at common law general personation, in the absence of evidence that the candidate or his agent was implicated, does not avoid the election (*Belfast Borough, Western Division Case* (1886) 4 O'M & H 105), although if a candidate's agent had arranged for voters to be personated, the election would, it seems, be avoided at common law (*Coventry Case, Berry v Eaton and Hill* (1869) 1 O'M & H 97 at 105). As to the statutory provisions by which personation is a corrupt practice see para 733 ante; and as to the avoidance of an election on this ground where an elected candidate has been found guilty see para 892 ante.

894. Avoidance of election for employing corrupt agent. If, at a parliamentary, Welsh Assembly or local government election[1], a candidate or his election agent[2] personally engages[3], as a canvasser or agent for the conduct or management of the election[4], any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election[5]: (1) by reason of his having been convicted or reported guilty of any corrupt or illegal practice[6]; or (2) by reason of his having been convicted more than once of an offence under the Public Bodies Corrupt Practices Act 1889[7], the candidate is incapable of being elected to fill the vacancy or any of the vacancies for which the election is held[8]. A local government election may be questioned[9] on the ground that the person whose election is questioned was, at the time of the election, by virtue of these provisions incapable of being elected[10].

A vote given at a parliamentary or local government election, or at a Welsh Assembly constituency election[11] or regional election, for a person who was, at the date of the election, incapable of being elected by virtue of these provisions, is not, by reason of his incapacity on this ground, deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on an election court's decision that he was so incapable[12]. Similarly, a vote given at a Welsh Assembly regional election for a registered political party[13] where at the time of the election each candidate included on the party's list was by virtue of these provisions incapable of being elected, is not, by reason of that incapacity, deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on the decision of an election court that he was so incapable[14].

1 For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante. There is no provision in relation to European parliamentary elections because corrupt and illegal practices relate only to personation and other voting offences in that context: see para 763 ante.

2 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; and as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante. At a Welsh Assembly election, the reference is, for an Assembly election, to any individual candidate or his election agent (see the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1)(a)) and, for a regional election, to any or all of a group of party list candidates or their election agent (see art 116(1)(b)). For the meanings of 'Assembly election' and 'regional election' in this context see para 3 note 1 ante; and for the meanings of 'individual candidate' and 'party list candidate', and as to the meaning of references to groups of party list candidates, see para 237 note 23 ante.

3 For the canvasser or agent to be personally engaged, it is sufficient for him to be engaged with the knowledge and consent of the candidate or election agent: *North Norfolk Case* (1869) 1 O'M & H 236 at 238; *Norwich Case* (1871) 23 LT 701 at 702, 2 O'M & H 38 at 40–41.

4 It is not necessary that the agent should be an agent for the management of the whole election; it is sufficient if he is agent for part of the election. He must be not simply an agent who might be employed to such an extent as might make the candidate answerable for corrupt or illegal practices committed by him, but employed in the way of managing a portion of the election: *North Norfolk Case, Burton's Case* (1869) 1 O'M & H 236 at 239.

5 Representation of the People Act 1983 s 165(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1).

6 Representation of the People Act 1983 s 165(1)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1)(i). The text refers to any corrupt or illegal practice within the meaning of the Representation of the People Act 1983 or the law relating to elections for the Northern Ireland Assembly, in relation to a parliamentary or local government election, and within the meaning of the Representation of the People Act 1983, the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284 (as amended) (see para 388 ante) or the law relating to elections to the European Parliament, the Northern Ireland Assembly or the Scottish Parliament, in relation to a Welsh Assembly election. As to European parliamentary elections see para 224 et seq ante. As to the law relating to elections for the Scottish Parliament see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 51 et seq; and as to the law relating to elections for the Northern Ireland Assembly see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) para 67 et seq. As to the imposition of incapacities in relation to candidates and others see para 904 post.

7 Representation of the People Act 1983 s 165(1)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1)(ii). As to the Public Bodies Corrupt Practices Act 1889 see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) para 529 et seq.

8 Representation of the People Act 1983 s 165(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(1). At a Welsh Assembly election, the incapacity imposed by art 116(1) applies, in relation to party list candidates at a regional election, to each candidate on the list (where their election agent engages any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election) or only to that candidate who engages, or those candidates who engage, that person (where their election agent does not engage such a person): art 116(2).

9 As to the questioning of local government elections generally see para 760 ante.

10 Representation of the People Act 1983 s 165(2).

11 For the meaning of 'constituency election' in this context see para 3 note 1 ante.

12 Representation of the People Act 1983 s 165(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(3). In the case of an election of the Mayor of London, a vote deemed in accordance with the Representation of the People Act 1983 s 165(3) to be thrown away is to be so deemed only to the extent that it is a vote given so as to indicate that the person who was under the incapacity is the voter's first or second preference from among the candidates: s 165(4) (added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 36). For the meaning of 'election of the Mayor of London' see para 10 ante. As to elections for the return of an elected Mayor of London see para 206 et seq ante.

13 For the meaning of 'registered political party' for these purposes see para 263 ante.

14 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 116(3).

895. Avoidance of local authority referendum by reason of general corruption, bribery, treating or intimidation. Where, on a referendum petition[1], it is shown that corrupt[2] or illegal practices[3] or illegal payments, employments or hirings[4] committed in reference to the referendum[5] for the purpose of promoting or procuring a particular outcome in relation to the question asked in the referendum have so extensively prevailed that they may be reasonably supposed to have affected the result, the referendum, if that outcome was achieved, is void[6]. A referendum is not liable to be avoided, otherwise than under this provision, by reason of general corruption, bribery, treating or intimidation[7].

1 Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.

2 As to corrupt practices see generally para 707 et seq ante.

3 As to illegal practices see generally para 674 et seq ante.

4 As to the offence of illegal payment, employment or hiring see para 685 ante.

5 Ie a referendum, in relation to England, under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, and, in relation to Wales, under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

6 Representation of the People Act 1983 s 164(1); and see note 1 supra. See also the cases cited in para 893 ante.

7 Ibid s 164(2); and see note 1 supra.

896. Other circumstances in which a fresh election or referendum can be ordered. An election may be overturned, and a new election held, following an irregularity in the way the original election was conducted[1], or following a prosecution for election offences[2] or where a successful candidate is found to lack one of the qualifications for office[3]. An election or referendum may be avoided at the conclusion of the trial of a petition questioning such an election or referendum on any of the grounds so allowed[4].

A fresh local government election can also be ordered in certain circumstances by the High Court if such an election fails either wholly or in part or becomes void[5] and in other circumstances by the returning officer[6] or, in the case of parish or community elections, by the district council[7]. Proceedings may be instituted[8] against any person, on the ground that he acted or claims to be entitled to act as a member of a local authority while disqualified for so acting, even though the time for the presentation of an election petition has passed and the validity of the election itself cannot be challenged by that procedure[9], and the office in which he acted or claims to be entitled to act may be declared vacant[10].

1 See para 670 et seq ante.
2 See para 702 et seq ante.
3 See para 231 et seq ante.
4 As to parliamentary election petitions see para 759 ante; as to the questioning of an election under the Local Government Act 1972 see para 760 ante; as to Welsh Assembly election petitions see para 762 ante; and as to European parliamentary election petitions see para 763 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
5 See para 216 ante. In 1955 an order was made under the Local Government Act 1933 s 72(2) (repealed) for the holding of a fresh election of the mayor of Hastings because due notice of the holding of the annual meeting at which he was elected had not been given. In a case decided under the Municipal Corporations Act 1882 s 87 (repealed), concerning an election of aldermen which had been so conducted as not to be a lawful election, it was held that the proper remedy was by mandamus and not by an election petition: *Re Barnes Corpn, ex p Hutter* [1933] 1 KB 668, DC.
6 See para 216 ante. As to the procedure on the countermand or abandonment of the poll because of the death of a candidate see para 509 et seq ante.
7 See para 217 ante. The district council can still intervene although the time has passed for the presentation of an election petition: see *R v Miles, ex p Cole* (1895) 64 LJQB 420, DC (poll demanded by unauthorised person).
8 Ie under the Local Government Act 1972 s 92 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) para 132).
9 *Bishop v Deakin* [1936] Ch 409, [1936] 1 All ER 255.
10 See the Local Government Act 1972 s 92(2)(a)(i), (4); and LOCAL GOVERNMENT vol 29(1) (Reissue) para 132.

(ii) Votes Struck Off

897. Votes struck off following a scrutiny. Votes may be struck off following a scrutiny of original election documents in circumstances where a petitioner has claimed that the successful candidate was not elected by a majority of lawful votes[1].

1 As to scrutiny see para 837 et seq ante.

(iii) Recount

898. Recount following application. A petition may ask for a recount of the votes given (either to the petitioner alone or to all candidates at the election) and the

request may be granted on a successful application claiming grounds for believing that there has been a mistake on the part of the returning officer[1].

1 As to the application and procedure relating to a recount on application see paras 853–854 ante.

(iv) Report of Corrupt or Illegal Practices

899. Court's duty to report election candidate or agent personally guilty of a corrupt or illegal practice. At the conclusion of the trial of a parliamentary election petition[1], or a Welsh Assembly election petition[2] or a local government election petition[3], the election court must in certain circumstances make a report[4], which must state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice[5]. For the purposes of the provisions which impose civil incapacities on candidates personally guilty of such a practice[6], if it is reported that a corrupt practice, other than treating or undue influence, was committed with a candidate's knowledge and consent, he is to be treated as having been reported personally guilty of that corrupt practice[7]; and if it is reported that an illegal practice was committed with a candidate's knowledge and consent at a parliamentary election, he is to be treated as having been reported personally guilty of that illegal practice[8].

The report must also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election[9]. If, however, a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, he is not to be treated, for the purposes of the provisions avoiding an election or imposing civil incapacities[10], as having been reported guilty by his agents of the offences mentioned in the report if the court also reports that the candidate has proved[11] to the court: (1) that no corrupt or illegal practice was committed at the election by the candidate or his election agent[12] and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent[13]; and (2) that the candidate and his election agent[14] took all reasonable means for preventing the commission of corrupt and illegal practices at the election[15]; and (3) that the offences mentioned in the report were of a trivial, unimportant and limited character[16]; and (4) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents[17].

The general statutory provisions[18] as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice have effect subject to the express provisions[19] relating to particular acts which are declared to be corrupt or illegal practices[20].

1 As to parliamentary election petitions see para 759 ante.

2 Ie other than where the petition relates to a return under the Government of Wales Act 1998 s 9(6) (vacancy in electoral region seat: see para 222 ante). As to Welsh Assembly election petitions see para 762 ante. The provisions of the Government of Wales Act 1998 are superseded by the Government of Wales Act 2006 immediately after the ordinary election held in 2007 under the Government of Wales Act 1998 s 3 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS): see the Government of Wales Act 2006 s 161(1), (4), (5). As to the provision that applies for these purposes after that date see the Government of Wales Act 2006 s 11(6); and para 222 ante.

3 As to the questioning of an election under the Local Government Act 1972 see para 760 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to elections in the City of London see para 30 ante.

4 As to when a report is to be made, and as to the procedure, in relation to a parliamentary election petition, see para 857 ante; in relation to a local government election petition, see para 860 ante; and, in relation to a Welsh Assembly election petition, see para 862 ante.

5 Representation of the People Act 1983 s 158(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(1). There is no provision in relation to European

parliamentary elections because corrupt and illegal practices relate only to personation and other voting offences in that context: see para 763 ante. As to illegal practices (including those which are also offences) see para 674 et seq ante; and as to corrupt practices (including those which are also offences) see para 707 et seq ante.

6 See para 904 et seq post.

7 Representation of the People Act 1983 s 158(2)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(2)(a).

8 Representation of the People Act 1983 s 158(2)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(2)(b).

9 Representation of the People Act 1983 s 158(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3).

10 See paras 892 ante, 904 post.

11 The onus of proof lies on the candidate: *Rochester Borough Case* (1892) 4 O'M & H 156.

12 As to the appointment of an election agent for parliamentary and local government elections see para 238 ante; and as to the appointment of an election agent for elections to the National Assembly for Wales see para 242 ante. In the case of an election where candidates are not required to have election agents (see para 238 note 3 ante), the matters to be proved under head (1) in the text are that no corrupt or illegal practice was committed at the election by the candidate or with his knowledge or consent and the offences mentioned in the report were committed without the sanction or connivance of the candidate: Representation of the People Act 1983 s 158(3).

13 Ibid s 158(3)(a); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3)(a). For a case where the candidate was held to have failed to satisfy the court on this point see *Walsall Borough Case* (1892) as reported in Day 106 at 114.

14 In the case of an election where candidates are not required to have election agents (see para 238 note 3 ante), the matters to be proved under head (2) in the text are that all reasonable means for preventing the commission of corrupt and illegal practices at the election were taken by and on behalf of the candidate: Representation of the People Act 1983 s 158(3).

15 Ibid s 158(3)(b); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3)(b). In *Rochester Borough Case* (1892) 4 O'M & H 156 and in *Southampton Borough Case* (1895) 5 O'M & H 17, the court refused relief to a candidate because he had not satisfied the court on this point.

16 Representation of the People Act 1983 s 158(3)(c); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3)(c). In *Southampton Borough Case* (1895) 5 O'M & H 17, the illegal payment of a voter's railway fare was held to come within these words.

17 Representation of the People Act 1983 s 158(3)(d); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 107(3)(d). In *Southampton Borough Case* (1895) 5 O'M & H 17, it was held that if there were a joint candidature, as may be the case at a local government election, relief could be granted to one candidate and refused to the other. If the candidate fails to obtain relief under this provision, he can still apply for relief on the ground of inadvertence (see para 694 ante): *Cork, Eastern Division Case* (1911) 6 O'M & H 318 at 359.

18 See para 904 post.

19 See eg paras 280, 284, 674 et seq ante.

20 Representation of the People Act 1983 159(4), 160(7); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(7).

900. Court's duty to report justice of the peace found guilty of a corrupt practice. Where a justice of the peace is reported by an election court to have been guilty of any corrupt practice in reference to an election or referendum[1], the court must report the case to the Lord Chancellor and the Lord Chief Justice with such evidence as may have been given of the corrupt practice[2].

1 Ie in reference to a parliamentary, Welsh Assembly, or local government election (or any other election under the Local Government Act 1972), or a referendum in relation to England under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, or a referendum in relation to Wales under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'local government election' see para 10 ante; and for the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. There is no provision in relation to European parliamentary elections because no petition may be brought in that context on the grounds of the commission of corrupt or illegal practices, except on grounds of personation or other voting

offences: see para 763 ante. As to when such a report as is mentioned in the text is to be made, and as to the procedure in relation to a parliamentary election petition, see para 857 ante; in relation to a local government election petition, see para 860 ante; in relation to a Welsh Assembly election petition, see para 862 ante; and, in relation to a local authority referendum petition, see para 865 ante.

2 Representation of the People Act 1983 s 161 (amended by the Representation of the People Act 1985 ss 24, 28(1), Sch 4 para 53, Sch 5; and the Constitutional Reform Act 2005 s 15(1), Sch 4 para 149); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 112 (amended by SI 2006/1016). The Representation of the People Act 1983 s 161 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

901. Court's duty to report barrister, solicitor, etc found guilty of a corrupt practice. Where a barrister, advocate, solicitor or any person belonging to any profession the admission to which is regulated by law is reported by an election court to have been guilty of any corrupt practice in reference to an election or referendum[1], the court must bring the matter before the Inn of Court, High Court or tribunal having power to take cognisance of any misconduct of the person in his profession, and the Inn of Court, High Court or tribunal may deal with him as if the corrupt practice were misconduct by him in his profession[2].

1 Ie in reference to a parliamentary, Welsh Assembly, or local government election (or any other election under the Local Government Act 1972), or a referendum in relation to England under the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, or a referendum in relation to Wales under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870. For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; for the meaning of 'local government election' see para 10 ante; and for the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. As to elections in the City of London see para 30 ante. For the meaning of 'referendum' for these purposes see para 576 note 2 ante. There is no provision in relation to European parliamentary elections because no petition may be brought in that context on the grounds of the commission of corrupt or illegal practices, except on grounds of personation or other voting offences: see para 763 ante. As to when such a report as is mentioned in the text is to be made, and as to the procedure in relation to a parliamentary election petition, see para 857 ante; in relation to a local government election petition, see para 860 ante; in relation to a Welsh Assembly election petition, see para 862 ante; and, in relation to a local authority referendum petition, see para 865 ante.

2 Representation of the People Act 1983 s 162 (amended by the Representation of the People Act 1985 ss 24, 28(1), Sch 4 para 54, Sch 5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 113. The Representation of the People Act 1983 s 162 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

902. Court's duty to report conviction of certain offences to Electoral Commission. The court by or before which a person is convicted of an offence under the Political Parties, Elections and Referendums Act 2000[1] or an offence committed in connection with a relevant election[2] must notify the Electoral Commission[3] of that person's conviction as soon as is practicable[4].

1 Political Parties, Elections and Referendums Act 2000 s 154(a). As to offences generally see para 735 et seq ante.

2 Ibid s 154(b). The text refers to a relevant election within the meaning of Pt II (ss 22–40) (as amended) (see para 260 ante).

3 As to the Electoral Commission see para 31 et seq ante.

4 Political Parties, Elections and Referendums Act 2000 s 154.

(v) Personal Incapacities

903. Disqualification from being the Mayor of London for failure to make returns as to election expenses. If, in the case of any candidate at an election of the Mayor of London[1], the return[2] and declarations as to election expenses[3] are not delivered before the expiry of the time limited for the purpose, the candidate must, as respects that election, be disqualified from being elected or being the Mayor of London[4].

Any application[5] by such a candidate for relief in respect of a failure to deliver the return and declarations as to election expenses must be made within the period of six weeks following the day on which the time limited for their delivery expires[6].

The disqualification from being elected or being the Mayor of London does not take effect unless or until the period specified for making an application for relief expires without such an application having been made[7] or, if such an application is made, unless or until the application is finally disposed of without relief being granted[8] or is abandoned or fails by reason of non-prosecution[9].

1 For the meaning of 'election of the Mayor of London' for these purposes see para 10 note 4 ante. As to elections for the return of an elected Mayor of London see para 206 et seq ante.
2 For the meaning of 'return as to election expenses' see para 286 note 1 ante.
3 For the meaning of 'declaration as to election expenses' see para 287 note 2 ante.
4 Representation of the People Act 1983 s 85A(1) (s 85A added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 26).
5 Ie under the Representation of the People Act 1983 s 86 (as amended) (see para 691 ante).
6 Ibid s 85A(2) (as added: see note 4 supra).
7 Ibid s 85A(3)(a) (as added: see note 4 supra).
8 Ibid s 85A(3)(b)(i) (as added: see note 4 supra).
9 Ibid s 85A(3)(b)(ii) (as added: see note 4 supra).

904. Personal incapacity incurred on proof of corrupt or illegal voting practices at a parliamentary, local government election or local authority referendum. A candidate or other person reported by an election court personally guilty of a corrupt or illegal practice[1], or a person who is convicted of a corrupt or illegal practice[2], in relation to a parliamentary or local government election[3] or local authority referendum[4], is during the relevant period[5] incapable[6]: (1) of being registered as an elector or voting[7] at any parliamentary election in the United Kingdom[8] or at any local government election in Great Britain or at any referendum[9]; or (2) of being elected to the House of Commons[10]; or (3) of holding any elective office[11].

If a candidate or other person so reported is already elected to a seat in the House of Commons, or holds any such office, he must vacate the seat or office as from the date of the report[12].

If a person so convicted is already elected to a seat in the House of Commons or holds any such office, he must vacate the seat or office[13] in question at the appropriate time for these purposes[14], namely the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction[15] or if (at any time within that period) that period is extended the end of the period as so extended or the end of the period of three months beginning with the date of the conviction, whichever is the earlier[16]. If, before the appropriate time, notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he must vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless[17]: (a) such an appeal is dismissed or abandoned at any earlier time (in which case he must vacate the seat or office at that time)[18]; or (b) at any time within that period of three months the court determines on such an appeal that the conviction

should not be upheld (in which case the seat or office is not to be vacated by him)[19]. Where such a person vacates a seat or office in this way, no subsequent determination of a court that his conviction should not be upheld entitles him to resume the seat or office[20].

If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or to any elective office, he must, in addition to being subject to the incapacities mentioned in heads (1) to (3) above, be suspended from performing any of his functions as a member of Parliament, or (as the case may be) any of the functions of that office, during the period of suspension[21], being the period beginning with the date of the conviction and ending with the date on which the seat or office is vacated or, where head (b) above applies, the date on which the court determines that the conviction should not be upheld[22].

Any incapacities or other requirements applying to a person who is convicted of a corrupt or illegal practice apply in addition to any other statutory punishment that is imposed upon conviction, but they are subject to the court's power to mitigate or remit them in cases where such power is given to the court[23].

1 As to illegal practices (including those which are also offences) see para 674 et seq ante; and as to corrupt practices (including those which are also offences) see para 707 et seq ante. As to the circumstances in which a candidate is treated as having been reported personally guilty of such practices see para 899 ante. The incapacity does not apply where the person is guilty by an agent: *Morris v Shrewsbury Town Clerk* [1909] 1 KB 342, DC.

2 As to the prosecution of corrupt practices see para 885 ante; and as to the prosecution of illegal practices see para 886 ante.

3 For the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante.

4 For the meaning of 'referendum' for these purposes see para 576 note 2 ante. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. The Representation of the People Act 1983 s 173(1)(a)(i), (2), (3) (as substituted and amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2.

5 For these purposes, the relevant period is the period beginning with the date of the report or the date of the conviction (as the case may be) and ending, in the case of a person reported personally guilty or convicted (as the case may be) of a corrupt practice, five years after that date or, in the case of a person reported personally guilty or convicted (as the case may be) of an illegal practice, three years after that date: Representation of the People Act 1983 s 160(5) (substituted by the Political Parties, Elections and Referendums Act 2000 s 137, Sch 17 paras 1, 8); Representation of the People Act 1983 s 173(3) (s 173 substituted by the Political Parties, Elections and Referendums Act 2000 s 136); and see note 4 supra. However, if at any time within that period of five or three years a court determines on an appeal by that person against such a conviction that it should not be upheld, the relevant period ends at that time instead: Representation of the People Act 1983 s 173(3) (as so substituted).

6 Ie subject to ibid s 174 (as amended) (mitigation and remission of incapacities: see para 907 post).

7 As to the striking off of votes given by persons under an incapacity see para 839 ante.

8 For the meaning of 'United Kingdom' see para 13 note 1 ante.

9 Representation of the People Act 1983 s 160(4)(a)(i) (s 160(4) substituted by the Political Parties, Elections and Referendums Act 2000 Sch 17 paras 1, 8); Representation of the People Act 1983 s 173(1)(a)(i) (as substituted: see note 5 supra); and see note 4 supra. For the meaning of 'Great Britain' see para 13 note 1 ante. The incapacity imposed under head (1) in the text applies only to a candidate or person reported personally guilty or convicted (as the case may be) of a corrupt practice under s 60 (see para 733 ante) or s 62A (as added) (see para 734 ante) or an illegal practice under s 61 (as amended) (see para 703 ante): s 160(4A) (added by the Political Parties, Elections and Referendums Act 2000 Sch 17 paras 1, 8; and amended by the Electoral Administration Act 2006 s 74(1), Sch 1 paras 104, 120(1), (2)); Representation of the People Act 1983 s 173(2) (as substituted (see note 5 supra); and amended by the Electoral Administration Act 2006 Sch 1 paras 104, 122); and see note 4 supra.

10 Representation of the People Act 1983 ss 160(4)(a)(ii), 173(1)(a)(ii) (both as substituted: see note 5 supra).

11 Ibid ss 160(4)(a)(iii), 173(1)(a)(iii) (both as substituted: see note 5 supra).
12 Ibid s 160(4)(b) (as substituted: see note 5 supra).
13 Ibid s 173(1)(b) (as substituted: see note 5 supra).
14 Ibid s 173(4) (as substituted: see note 5 supra).
15 Ibid s 173(4)(a) (as substituted: see note 5 supra).
16 Ibid s 173(4)(b) (as substituted: see note 5 supra).
17 Ibid s 173(5) (as substituted: see note 5 supra).
18 Ibid s 173(5)(a) (as substituted: see note 5 supra).
19 Ibid s 173(5)(b) (as substituted: see note 5 supra). As to a consideration of the situation that applied before s 173 was substituted see *A-G v Jones* [2000] QB 66, [1999] 3 All ER 436, in which the court, explaining the statutory regime, held that vacation of the seat is mere machinery consequent on the candidate's incapacity which is consequent on the conviction and that, if the conviction is overturned, the candidate's capacity to sit is restored and the seat, if not already filled by an election taking place between conviction and appeal, ceases to be vacant.
20 Representation of the People Act 1983 s 173(6) (as substituted: see note 5 supra).
21 Ibid s 173(7) (as substituted: see note 5 supra).
22 Ibid s 173(8) (as substituted: see note 5 supra).
23 Ibid s 173(9) (as substituted: see note 5 supra).

905. Personal incapacity incurred on proof of corrupt or illegal voting practices at a Welsh Assembly election. A candidate or other person reported by an election court personally guilty of a corrupt practice[1] in relation to a Welsh Assembly election[2] is for five years from the date of the report incapable[3]: (1) of being registered as an elector or voting at any Assembly election, election to the House of Commons[4], election to the European Parliament[5] or election in Great Britain[6] to any public office[7]; or (2) of being elected to and sitting in the Assembly, the House of Commons, the European Parliament[8]; and (3) of holding any public or judicial office[9]. If already elected to the Assembly or such other body as is mentioned in head (2) above or holding such office, such a candidate or other person so reported must from that date vacate the seat or office[10]. A candidate or other person reported by an election court personally guilty of an illegal practice[11] is for three years from the date of the report incapable of being registered as an elector or voting at any Assembly election, any parliamentary election, any European parliamentary election or at any election to a public office held[12]: (a) if the offence was committed in relation to a constituency election[13], for or in the Assembly constituency[14] for which the election was held, any other Assembly constituency in the Assembly electoral region[15] in which the first mentioned constituency is situated, the Assembly electoral region in which the first mentioned constituency is situated, or any Assembly constituency or electoral region which includes the whole or any part of the first mentioned constituency as constituted for the purposes of the election (or any other Assembly constituency within that Assembly electoral region)[16]; or (b) if the offence was committed in relation to a regional election[17], for or in the Assembly electoral region for which the election was held, any Assembly constituency situated in that electoral region, or any Assembly constituency or electoral region which includes the whole or part of the first mentioned electoral region as constituted for the purposes of the election (or any other Assembly constituency in that second mentioned Assembly electoral region)[18]. The incapacities imposed by head (a) above or, as the case may be, head (b) above apply only to a candidate or other person reported personally guilty of an illegal practice in relation to voting offences other than personation[19]. The provisions as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice have effect subject to the express provisions relating to particular acts which are declared to be corrupt or illegal practices[20].

If a person is reported by an election court personally guilty of a corrupt practice under the Representation of the People Act 1983, in addition to being subject to the incapacities set out therein[21], he is for five years from the date of that report incapable of being elected to and sitting in the Assembly, and if already elected to the Assembly, he

must from that date vacate the seat[22]. If a person is reported by an election court personally guilty of an illegal practice under the Representation of the People Act 1983, in addition to being subject to the incapacities set out therein[23], he is for three years from the date of the report incapable of being registered as an elector or voting at any Assembly election held[24]: (i) if the offence was committed in relation to a parliamentary election, in the Assembly constituency which is coterminous with the parliamentary constituency, in any other Assembly constituency in the Assembly electoral region in which the parliamentary constituency is situated, in the Assembly electoral region in which the parliamentary constituency is situated, or in any Assembly constituency or electoral region which includes the whole or any part of the parliamentary constituency as constituted for the purposes of the election (or any other Assembly constituency in that Assembly electoral region)[25]; or (ii) if the offence was committed in relation to an election under the Local Government Act 1972[26], in the Assembly constituency or electoral region which includes the whole or any part of the local government area for which the election was held (or any other Assembly constituency in that Assembly electoral region) or in any Assembly constituency or electoral region which includes the whole or any part of the local government area for which the election was held as constituted for the purposes of the election (or any other Assembly constituency within that Assembly electoral region)[27].

A person convicted of a corrupt practice[28] is subject to the like incapacities[29] as if at the date of the conviction he had been reported personally guilty of that corrupt practice[30]. A person convicted of an illegal practice[31] is subject to the like incapacities[32] as if at the date of the conviction he had been reported personally guilty of that illegal practice[33]. In addition to being subject to these incapacities, a person convicted of a corrupt or illegal practice who has already been elected to a seat in the Assembly must be suspended from performing any of his functions as a member of the Assembly during the period of suspension[34], being the period beginning with the date of the conviction and ending with the date on which the seat is vacated[35] or, where the court determines on appeal that the conviction should not be upheld[36], the date on which the court determines that the conviction should not be upheld[37]. These incapacities are in addition to any other statutory punishment[38], but are subject to the court's power to mitigate or remit them in cases where such power is given to the court[39]. A person convicted of a corrupt or illegal practice who has already been elected to a seat in the Assembly must vacate the seat at the appropriate time for these purposes, namely the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction[40] or, if (at any time within that period) that period is extended, the end of the period as so extended or the end of the period of three months beginning with the date of the conviction[41], whichever is the earlier[42]. If, before the appropriate time, notice of appeal is given or an application for leave is made by such a person in respect of such a conviction, he must vacate the seat at the end of the period of three months beginning with the date of the conviction unless such an appeal is dismissed or abandoned at any earlier time (in which case he must vacate the seat at that time)[43] or at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat is not to be vacated by him)[44]. Where such a person vacates a seat in this way no subsequent determination of a court that his conviction should not be upheld entitles him to resume the seat[45].

Subject to the court's power to mitigate or remit incapacities in cases where such power is given to the court but in addition to any punishment duly provided, a person convicted of a corrupt practice under the Representation of the People Act 1983 is subject to like incapacities[46] as if at the date of the conviction he had been reported

personally guilty of that corrupt practice[47], and a person convicted of an illegal practice under the Representation of the People Act 1983, in relation to a parliamentary election and in relation to an election under the Local Government Act 1972, is subject to like incapacities[48] as if at the date of the conviction he had been reported personally guilty of that illegal practice[49]. Subject to the court's power to mitigate or remit incapacities in cases where such power is given to the court but in addition to any punishment duly provided, a person convicted of a corrupt practice under the European parliamentary elections rules[50] is, for five years from the date of the conviction, incapable of being elected to and sitting in the Assembly and, if already elected to the Assembly, he must from that date vacate the seat[51]; and a person convicted of an illegal practice under the European parliamentary elections rules is, for three years from the date of the conviction, incapable of being registered as an elector or voting at any Assembly election[52]. The court's power to mitigate or remit incapacities under the Representation of the People Act 1983 applies to any incapacity so imposed as if the incapacity was imposed under the Representation of the People Act 1983[53].

1 As to corrupt practices see generally para 707 et seq ante. As to the circumstances in which a candidate is treated as having been reported personally guilty of such practices see para 899 ante.
2 For the meaning of 'Assembly election' see para 3 note 1 ante.
3 For the meaning of 'parliamentary election' see para 9 ante.
4 For the meaning of 'Great Britain' see para 13 note 1 ante.
5 As to European parliamentary elections see para 224 et seq ante.
6 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(3).
7 Ibid art 109(3)(a). The incapacities imposed by head (1) in the text apply only to a candidate or other person reported personally guilty of a corrupt practice in relation to personation (i e under art 28: see para 733 ante): art 109(4).
8 Ibid art 109(3)(b).
9 Ibid art 109(3)(c).
10 Ibid art 109(3).
11 As to illegal practices see generally para 674 et seq ante. As to the circumstances in which a candidate is treated as having been reported personally guilty of such practices see para 899 ante.
12 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5).
13 For the meaning of 'constituency election' in the context of Welsh Assembly elections see para 3 note 1 ante.
14 For the meaning of 'Assembly constituency' in the context of Welsh Assembly elections see para 3 note 1 ante.
15 For the meaning of 'Assembly electoral region' in the context of Welsh Assembly elections see para 3 note 1 ante.
16 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5)(a).
17 For the meaning of 'regional election' in the context of Welsh Assembly elections see para 3 note 1 ante.
18 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5)(b).
19 Ibid art 109(6). The text refers to an illegal practice under art 29 (see para 703 ante).
20 Ibid art 109(7).
21 Ie subject to the incapacities set out in the Representation of the People Act 1983 s 160(4) (as substituted) (see para 904 ante).
22 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(1). This provision is subject to the provisions of the Representation of the People Act 1983 s 174 (as amended) (mitigation and remission of incapacities: see para 907 post), which applies also to any incapacity imposed under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110 as if the incapacity was imposed under the Representation of the People Act 1983 s 160 (as amended) (see para 904 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(1), (3). The provision set out in the text was also applied in relation to the Representation of the People Act 1983 as it was applied by the European Parliamentary Elections Regulations 1986, SI 1986/2209 (revoked): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 111(1), (2). However, the replacement provisions, the European Parliamentary Elections Regulations 2004, SI 2004/293, have no provision to impose incapacity on persons reported personally guilty of a corrupt practice by an election court because corrupt and illegal practices relate only to personation and other voting offences in that context: see para 763 ante.
23 Ie subject to the incapacities set out in the Representation of the People Act 1983 s 160(5) (as substituted) (see para 904 ante).

24 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2). This provision is subject to the provisions of the Representation of the People Act 1983 s 174 (as amended) (mitigation and remission of incapacities: see para 907 post), which applies also to any incapacity imposed under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110 as if the incapacity was imposed under the Representation of the People Act 1983 s 160 (as amended) (see para 904 ante): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2), (3). The provision set out in the text was also applied in relation to the Representation of the People Act 1983 as it was applied by the European Parliamentary Elections Regulations 1986, SI 1986/2209 (revoked): National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 111(1), (3). However, the replacement provisions, the European Parliamentary Elections Regulations 2004, SI 2004/293, have no provision to impose incapacity on persons reported personally guilty of am illegal practice by an election court because corrupt and illegal practices relate only to personation and other voting offences in that context: see para 763 ante.
25 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2)(a).
26 For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante.
27 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2)(b).
28 As to the prosecution of corrupt practices see para 885 ante.
29 Ie the incapacities imposed by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(3) (see the text and notes 1–10 supra).
30 Ibid art 122(1)(a).
31 As to the prosecution of illegal practices see para 886 ante.
32 Ie the incapacities imposed by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109(5)(a) (see the text and notes 13–16 supra) in relation to a constituency election and the incapacities imposed by art 109(5)(b) (see the text and notes 17–18 supra) in relation to a regional election.
33 Ibid art 122(1)(b).
34 Ibid art 122(5).
35 Ibid art 122(6)(a). The text refers to the date on which the seat is vacated in accordance with art 122(2) or art 122(3) (see the text and notes 40–44 infra).
36 Ie where ibid art 122(3)(b) applies (see the text and note 44 infra).
37 Ibid art 122(6)(b).
38 Ie any punishment imposed under ibid art 119 (see para 885 ante) or art 120 (see para 886 ante).
39 Ibid art 122(7). The text refers to the mitigation and remission of incapacities under the Representation of the People Act 1983 s 174 (as amended) (see para 907 post), to which both the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 119 (punishment of corrupt practices: see para 885 ante) and art 120 (punishment of illegal practices: see para 886 ante) are subject.
40 Ibid art 122(2)(a).
41 Ibid art 122(2)(b).
42 Ibid art 122(2).
43 Ibid art 122(3)(a).
44 Ibid art 122(3)(b).
45 Ibid art 122(4).
46 Ie the incapacities imposed by ibid art 110(1) (see the text and notes 21–22 supra).
47 Ibid art 123(1)(a).
48 Ie the incapacities imposed by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 110(2)(a) (see the text and note 25 supra) in relation to a parliamentary election and the incapacities imposed by art 110(2)(b) (see the text and notes 26–27 supra) in relation to an election under the Local Government Act 1972.
49 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 123(1)(b).
50 As to mitigation and relief see para 885 ante. For the meaning of 'European parliamentary elections rules' see para 388 ante; definition applied by virtue of the Interpretation Act 1978 s 17(2).
51 National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, arts 111(2), 124(2)(a).
52 Ibid arts 111(3), 124(2)(b).
53 Ibid arts 123(2), 124(3). The text refers to the Representation of the People Act 1983 s 174 (as amended) (see para 907 post) applying to any incapacity imposed under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 123 or art 124 as if the incapacity was imposed under the Representation of the People Act 1983 s 160 (as amended) (see para 904 ante).

906. Personal incapacity incurred on conviction of corrupt or illegal voting practices at a European parliamentary election. A candidate or other person convicted of a corrupt or illegal practice[1], in relation to a European parliamentary

election[2], is during the relevant period[3] incapable[4]: (1) of being registered as an elector or voting[5] at any parliamentary[6] or European parliamentary election in the United Kingdom[7] or at any local government election[8] in Great Britain[9]; or (2) of being elected to the House of Commons or the European Parliament[10]; or (3) of holding any elective office[11].

If a person so convicted is already elected to a seat in the House of Commons or the European Parliament or if he holds any such office, he must vacate the seat or office as from the date of the conviction[12] or at the appropriate time for these purposes[13], being the end of the period which is the period prescribed by law within which notice of appeal may be given or an application for leave to appeal may be made by him in respect of the conviction[14] or, if (at any time within that period) that period is extended, the end of the period as so extended or the end of the period of three months beginning with the date of the conviction[15], whichever is the earlier[16]. If, before the appropriate time, notice of appeal is given or an application for leave to appeal is made by such a person in respect of the conviction, he must vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless[17]: (a) such an appeal is dismissed or abandoned at any earlier time (in which case he must vacate the seat or office at that time)[18]; or (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat or office is not to be vacated by him)[19]. Where such a person vacates a seat or office in this way, no subsequent determination of a court that his conviction should not be upheld entitles him to resume the seat or office[20].

If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or the European Parliament or to any elective office, he must, in addition to being subject to the incapacities mentioned in heads (1) to (3) above, be suspended from performing any of his functions as a member of Parliament or member of the European Parliament ('MEP'), or (as the case may be) any of the functions of that office, during the period of suspension[21], being the period beginning with the date of the conviction and ending with the date on which the seat or office is vacated or, where head (b) above applies, the date on which the court determines that the conviction should not be upheld[22].

Any incapacities or other requirements applying to a person who is convicted of a corrupt or illegal practice apply in addition to any other statutory punishment that is imposed upon conviction[23], but they are subject to the court's power to mitigate or remit them in cases where such power is given to the court[24].

1 As to the prosecution of corrupt practices see para 885 ante; and as to the prosecution of illegal practices see para 886 ante.

2 As to European parliamentary elections see para 224 et seq ante.

3 For these purposes, the relevant period is the period beginning with the date of the conviction and ending, in the case of a person convicted of a corrupt practice, five years after that date or, in the case of a person convicted of an illegal practice, three years after that date, except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period ends at that time instead: European Parliamentary Elections Regulations 2004, SI 2004/293, reg 107(3).

4 Ie subject to ibid reg 112 (mitigation and remission of incapacities: see para 907 post).

5 As to the striking off of votes given by persons under incapacity see para 839 ante.

6 For the meaning of 'parliamentary election' see para 9 ante.

7 For the meaning of 'United Kingdom' see para 13 note 1 ante.

8 For the meaning of 'local government election' see para 10 ante.

9 European Parliamentary Elections Regulations 2004, SI 2004/293, reg 107(1)(a)(i). For the meaning of 'Great Britain' see para 13 note 1 ante. The incapacity imposed under head (1) in the text applies only to a candidate or person convicted of a corrupt practice under reg 23 (personation: see para 733 ante) or of an illegal practice under reg 24 (as amended) (other voting offences: see para 703 ante): reg 107(2). As to the incapacity imposed in relation to European parliamentary elections held in the combined region (as

to which see para 76 ante) preventing a person from being registered as a European parliamentary elector or from voting at any European parliamentary election in Gibraltar see reg 107(1)(a)(ii).

10 Ibid reg 107(1)(a)(iii).
11 Ibid reg 107(1)(a)(iv).
12 Ibid reg 107(1)(b).
13 Ibid reg 107(4).
14 Ibid reg 107(4)(a).
15 Ibid reg 107(4)(b).
16 Ibid reg 107(4).
17 Ibid reg 107(5).
18 Ibid reg 107(5)(a).
19 Ibid reg 107(5)(b).
20 Ibid reg 107(6).
21 Ibid reg 107(7).
22 Ibid reg 107(8).
23 Ie punishment imposed under ibid reg 109 (punishment of corrupt practices: see para 885 ante) or reg 110 (punishment of illegal practices: see para 886 ante).
24 Ibid reg 107(9). The text refers to the court's power under reg 112 (mitigation and remission of incapacities: see para 907 post).

907. Mitigation and remission of incapacities imposed on proof of corrupt or illegal voting practices at elections. Where any person is subject to any incapacity by virtue of the report of an election court[1] and on a prosecution he or some other person in respect of whose acts the incapacity was imposed is acquitted of any of the matters in respect of which the incapacity was imposed, the court may order that the incapacity is thenceforth to cease so far as it is imposed in respect of those matters[2]. Where on a prosecution any person who is subject to any such incapacity is convicted of any such matters, no further incapacity is to be taken to be imposed by reason of the conviction, and the court has the like power, if any, to mitigate or remit for the future certain incapacities[3] imposed by virtue of a report of an election court as if they had been imposed by reason of the conviction[4]. A court exercising any of these powers must make an order declaring how far, if at all, the incapacities imposed by virtue of the report remain unaffected by virtue of the exercise of the power, and that order is conclusive for all purposes[5].

Where a person convicted of a corrupt or illegal practice is subsequently reported by an election court to have been guilty of such a practice, no further incapacity is to be imposed on him[6], by reason of the report[7].

Where any person is subject to an incapacity by virtue of a conviction[8] or (alternatively, in relation to a parliamentary, local government or Welsh Assembly election or local authority referendum) by virtue of the report of an election court, and any witness who gave evidence against him on the proceeding for the conviction or report (as the case may be) is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction or report (as the case may be) so far as respects that person was based on perjury, may order that the incapacity is thenceforth to cease[9].

1 Ie by virtue of reports following the trial of a parliamentary or local election petition (see para 904 ante) or by virtue of reports following the trial of a Welsh Assembly election petition (see para 905 ante). For the meaning of 'Assembly election' in the context of Welsh Assembly elections see para 3 note 1 ante; for the meaning of 'parliamentary election' see para 9 ante; and for the meaning of 'local government election' see para 10 ante. As to elections in the City of London see para 30 ante. There is no provision in relation to the trial of a European parliamentary election petition because in that context corrupt and illegal practices relate only to personation and other voting offences: see para 763 ante; and cf, in relation to prosecutions pursuant to personation and other voting offences, the text and notes 8–9 infra. Provision is made for questioning a local authority referendum by applying and modifying the provision made for questioning an election under the Local Government Act 1972: see para 764 ante. For the meaning of 'election under the Local Government Act 1972' see para 10 note 2 ante. The Representation of the

People Act 1983 s 174 (as amended) has been applied and modified for the purposes of local authority referendums, in relation to England, by the Local Authorities (Conduct of Referendums) (England) Regulations 2001, SI 2001/1298, reg 8, Sch 3 Table 2 and, in relation to Wales, by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, SI 2004/870, reg 8, Sch 3 Table 2. For the meaning of 'referendum' for these purposes see para 576 note 2 ante.

2 Representation of the People Act 1983 s 174(1); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(1); and see note 1 supra.

3 Ie the incapacities imposed, in relation to a parliamentary or local election, by the Representation of the People Act 1983 s 160 (as amended) (including that provision as applied and modified for the purposes of local authority referendums: see note 1 supra) (see para 904 ante) and, in relation to a Welsh Assembly election, by the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109 (see para 905 ante).

4 Representation of the People Act 1983 s 174(2); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(2); and see note 1 supra.

5 Representation of the People Act 1983 s 174(3); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(3); and see note 1 supra.

6 Ie imposed, in relation to a parliamentary or local election, under the Representation of the People Act 1983 s 160 (as amended) (see para 904 ante) and, in relation to a Welsh Assembly election, under the National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 109 (see para 905 ante).

7 Representation of the People Act 1983 s 174(4); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(4); and see note 1 supra.

8 Ie including, in this context, convictions following the prosecution of personation and other voting offences at a European parliamentary election (see note 1 supra).

9 Representation of the People Act 1983 s 174(5); National Assembly for Wales (Representation of the People) Order 2003, SI 2003/284, art 125(5); European Parliamentary Elections Regulations 2004, SI 2004/293, reg 112(1); and see note 1 supra. As to the application of the provision set out in the text in relation to European parliamentary elections held in the combined region (as to which see para 76 ante) see reg 112(2).

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